

1 JEFFREY C. KRAUSE (State Bar No. 94053),  
ERIC D. GOLDBERG (State Bar No. 157544),  
2 H. ALEXANDER FISCH (State Bar No. 223211), and  
MICHAEL S. NEUMEISTER (State Bar No. 274220), Members of  
3 STUTMAN, TREISTER & GLATT  
PROFESSIONAL CORPORATION  
4 1901 Avenue of the Stars, 12th Floor  
Los Angeles, CA 90067  
5 Telephone: (310) 228-5600  
Telecopy: (310) 228-5788  
6 Email: jkrause@stutman.com; egoldberg@stutman.com;  
afisch@stutman.com; mneumeister@stutman.com

7 Reorganization Counsel for  
8 Debtor and Debtor in Possession

9 Debtors' Mailing Address:  
Post Street LLC  
10 Festival Retail Fund 1 228 Post Street, L.P.  
c/o Bend Properties  
11 1920 Main St Suite # 150  
Irvine, CA 92614

13 UNITED STATES BANKRUPTCY COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

17 In re ) Case No. 11-32255  
18 POST STREET, LLC, a Delaware limited ) Chapter 11  
liability company; )  
19 ) **FIRST AMENDED DISCLOSURE**  
20 ) **STATEMENT DESCRIBING DEBTORS'**  
Debtor. ) **PLAN OF REORGANIZATION**  
21 ) **(OCTOBER 28, 2011)**

22 Confirmation Hearing

23 Date: [ ], 2011  
24 Time: [ ].  
25 Location: Hon. Thomas E. Carlson  
26 235 Pine St., 23rd Floor  
San Francisco, California

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<u>Page(s)</u>
I. HISTORY OF THE DEBTORS .....	4
A. The Debtors' Business. ....	4
B. Events Leading Up To The Filing Of The Chapter 11 Petition. ....	5
C. Events During The Chapter 11 Case. ....	6
D. Retention Of Professionals. ....	7
E. Schedules And Statements Of Affairs and Bar Date. ....	7
II. FINANCIAL INFORMATION REGARDING THE DEBTOR. ....	7
A. Historical Financial Data. ....	7
B. Financial Projections And Pro Forma Balance Sheet. ....	7
C. Financial Information Disclaimers. ....	8
III. SUMMARY OF THE PLAN OF REORGANIZATION. ....	8
A. Summary Of Classification And Treatment Of Claims And Interests Under The Plan. ....	10
1. Unclassified Claims — Administrative And Priority Tax Claims. ....	11
a. Administrative Claims. ....	11
(1) Nature And Amounts. ....	11
(2) Deadlines. ....	12
(3) Treatment. ....	12
b. Priority Tax Claims. ....	12
2. Classified Claims. ....	13
a. Classes Of Claims And Interests. ....	13
(1) Secured Claims. ....	13
(2) Unsecured Claims. ....	15
(3) Interests. ....	15
B. Executory Contracts And Unexpired Leases. ....	15
1. Assumption. ....	16

1	2.	Cure Payments.....	16
2	3.	Rejection.....	16
3	C.	Implementation Of The Plan.....	17
4	1.	Investment in the Property.....	17
5	2.	Execution of the SNDA.....	18
6	3.	Revesting of Assets and Operations of Property.....	18
7	4.	Preservation of Rights of Action and Defenses.....	19
8	5.	Powers of the Reorganized Debtors.....	20
9	6.	Discharge Of Debtor, Injunction, And Limitation of Liability.....	20
10	7.	Retention Of Jurisdiction.....	21
11	8.	Amendment, Modification And Severability.....	21
12	9.	Conditions to Effective Date.....	22
13	D.	Claim Process.....	22
14	IV.	CERTAIN FEDERAL INCOME TAX CONSEQUENCES.....	22
15	A.	Introduction.....	22
16	B.	Federal Income Tax Consequences to the Debtors.....	23
17	1.	Reduction Of Debtors' Indebtedness.....	23
18	C.	Tax Consequences To Creditors.....	24
19	V.	VOTING AND PLAN CONFIRMATION STANDARDS.....	25
20	A.	Voting On The Plan.....	25
21	1.	Classes Entitled To Vote.....	25
22	a.	What Is an Allowed Claim.....	25
23	b.	Who is Not Entitled to Vote.....	26
24	c.	Who Can Vote in More Than One Class.....	26
25	d.	Votes Necessary to Confirm the Plan.....	26
26	e.	Votes Necessary for a Class to Accept the Plan.....	26
27	2.	How To Vote.....	27
28	B.	Confirmation Of The Plan.....	27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1. Hearing On Confirmation Of The Plan..... 27

2. Confirmation Of The Plan Without Acceptances Of All  
Impaired Classes..... 27

C. Feasibility and Risk Factors..... 28

D. Best Interests Of Creditors Test..... 28

VI. ALTERNATIVES TO CONFIRMATION OF THE PLAN..... 30

VII. FAILURE OF THE PLAN ..... 30

VIII. RECOMMENDATION..... 30

1 Post Street, LLC ("Post Street") and Post 240 Partners, L.P. ("Post 240" and together  
2 with Post Street, the "Debtors")<sup>1</sup> filed petitions for relief under chapter 11 of title 11 of the United  
3 States Code (the "Bankruptcy Code") on June 15, 2011 (the "Post Street Petition Date") and October  
4 19, 2011 (the "Post 240 Petition Date," each a "Petition Date"), respectively. The Debtors are  
5 distributing this Disclosure Statement to solicit acceptances of the *Debtors' First Amended Plan of*  
6 *Reorganization* (the "Plan") proposed by the Debtors and filed with the United States Bankruptcy  
7 Court for the Northern District of California (the "Bankruptcy Court"), a copy of which is attached  
8 hereto as Exhibit 1 (the "Plan"). Capitalized terms that are used, and not otherwise defined, in this  
9 Disclosure Statement have the same meanings that are ascribed to them in the Plan.

10 The Debtors have prepared the Disclosure Statement pursuant to Bankruptcy Code  
11 section 1125 in connection with their solicitation of votes on the Plan. The purpose of the  
12 Disclosure Statement is to provide information of a kind and in sufficient detail to enable the holders  
13 of Claims in impaired classes to make an informed judgment whether to accept or reject the Plan and  
14 to inform holders of unclassified Claims, and Claims and equity interests in unimpaired classes of  
15 their treatment under the Plan. Neither the Debtors nor the Court has authorized the communication  
16 of any information about the Plan other than the information contained in the Disclosure Statement  
17 and the related materials transmitted herewith or Filed with the Bankruptcy Court.

18 Except as otherwise specifically indicated, the Disclosure Statement does not reflect  
19 any events that may occur subsequent to the date hereof. The Debtors and the Reorganized Debtors  
20 do not intend to update the projections (through amendments or supplements to the Disclosure  
21 Statement); thus, the projections will not reflect the impact of any subsequent events not already  
22 accounted for in the assumptions underlying the projections. Accordingly, the delivery of the  
23 Disclosure Statement shall not under any circumstance imply that the information therein is correct  
24 or complete after the date hereof.

25 On [\_\_\_\_], 2011, after notice and a hearing, the Bankruptcy Court approved the  
26 Disclosure Statement as containing "adequate information" of a kind and in sufficient detail to

27 \_\_\_\_\_  
28 <sup>1</sup> Post 240 is formerly known as Festival Retail Fund 1 228 Post Street, L.P.

1 enable a hypothetical, reasonable investor typical of holders of Claims or equity interests to make  
2 informed judgments about the Plan. A copy of the Bankruptcy Court's order approving the  
3 Disclosure Statement (the "Disclosure Statement Order") is enclosed herewith.<sup>2</sup> Approval of the  
4 Disclosure Statement by the Bankruptcy Court does not indicate that the Bankruptcy Court either has  
5 passed on the merits of the Plan or recommends acceptance or rejection of the Plan. No solicitation  
6 of votes may be made except pursuant to this Disclosure Statement and section 1125 of the  
7 Bankruptcy Code. In voting on the Plan, Creditors should not rely on any information relating to the  
8 Debtors, other than that contained in this Disclosure Statement, the Plan, and all exhibits hereto and  
9 thereto, or such other materials approved by the Bankruptcy Court.

10 For the convenience of all parties, the terms of the Plan are summarized in the  
11 Disclosure Statement. Although the Debtors believe that the Disclosure Statement accurately  
12 describes the Plan, all summaries of the Plan contained in the Disclosure Statement are qualified by  
13 the Plan itself, the exhibits thereto, and the documents described therein, which control in the event  
14 of any inconsistency with or incompleteness in the summaries provided in the Disclosure Statement.  
15 Accordingly, the Debtors urge each recipient to review carefully the contents of the Disclosure  
16 Statement, the Plan, and the other documents that accompany or are referred to in the Disclosure  
17 Statement or the Plan before making a decision to accept or reject the Plan.

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

- 19 1. The Plan without its Exhibits<sup>3</sup> (Exhibit 1);
- 20 2. Historical Financial Information (2009, 2010, and through May of 2011)  
21 (Exhibit 2);
- 22 3. The conclusions from an appraisal report for the Property (Exhibit 3);
- 23 4. Financial Projections for the Debtors (Exhibit 4);

24 <sup>2</sup> All exhibits to the Disclosure Statement will be filed with the Bankruptcy Court before the date  
25 creditors are served with the solicitation package.

26 <sup>3</sup> Exhibits to the Plan, except for those Exhibits attached as part of Exhibit "1" hereto, are to be  
27 Filed under separate caption on the Plan Supplement Filing Date. The Exhibits to the Plan are  
28 not included herein, but may be reviewed at the office of the Clerk of the Bankruptcy Court or  
parties in interest may direct a written request for a copy of such Exhibits to Debtors'  
Reorganization Counsel.

1           5.       Pro Forma Balance Sheet (Exhibit 5);

2           6.       Liquidation Analysis (Exhibit 6);

3           Under the Bankruptcy Code, only holders of Claims or equity interests that are in  
4 Classes that are “impaired” under the Plan are entitled to vote to accept or reject the Plan. Under the  
5 Plan, Classes 2, 4, 5, and 6 are impaired. The holders of Allowed Claims in Classes 2 and 4 (the  
6 “Voting Classes”) are entitled to vote to accept or reject the Plan. The holder(s) of the Allowed  
7 Claim(s) in Classes 1 and 3 are not entitled to vote to accept or reject the Plan and are deemed to  
8 have accepted the Plan under Bankruptcy Code § 1126(f), because Classes 1 and 3 are not impaired  
9 under the Plan. The holders of interests in Classes 5 and 6 are not entitled to vote to accept or reject  
10 the Plan and are deemed to have rejected the Plan under Bankruptcy Code § 1126(g), because they  
11 receive nothing under the Plan on account of their old interests. For a description of the classes of  
12 Claims and interests and their treatment under the Plan, see Section III, below.

13           Except as described below, the Plan may be confirmed only if accepted by each  
14 Voting Class. The Bankruptcy Code defines “acceptance” by an impaired class of claims as  
15 acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of  
16 the allowed claims in that class whose holders cast ballots. Holders of Claims in impaired classes  
17 may vote either to accept or reject the Plan.

18           In the event that either of Classes 2 or 4 rejects the Plan, the Debtors have requested  
19 that the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code, which  
20 permits confirmation of the Plan despite rejection by one or more impaired classes, if the Bankruptcy  
21 Court finds that the Plan “does not discriminate unfairly” and is “fair and equitable” as to the  
22 rejecting class. For a more detailed description of the Plan confirmation standards, see Section V  
23 below.

24           **THE DEBTORS BELIEVE THAT THE PLAN PROVIDES THE BEST**  
25 **FEASIBLE RECOVERIES TO THE HOLDERS OF CLAIMS IN THE VOTING CLASSES**  
26 **AND THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF SUCH**  
27 **HOLDERS. THE DEBTORS RECOMMEND THAT THE HOLDERS OF CLAIMS IN**  
28 **VOTING CLASSES VOTE TO ACCEPT THE PLAN.**

I.

HISTORY OF THE DEBTORS

A. The Debtors' Business.

Post Street and Post 240 own 34.41% and 65.59% tenant in common interests, respectively, in a building located at 228-240 Post Street (the "Property"). The Property is situated on one of the most desirable streets in San Francisco's Union Square, and includes approximately 37,000 square feet of high-end retail space. Post 240 purchased the Property in July 2007 for \$70 million. In connection with that acquisition, Post 240 entered into a loan agreement (the "Loan Agreement") with Eurohypo AG ("Eurohypo") whereby Eurohypo agreed to loan Post 240 the principal amount of up to \$59.85 million (the "Loan," the obligation for which is represented by the "Mortgage Note"), with repayment secured by the Property, rents, and certain personal property located on the Property.

Post Street purchased its interest in the Property from Post 240 in December 2007 and assumed certain obligations under the Loan Agreement. The Debtors planned to improve the tenant mix of the Property after one of their former tenants, Ann Taylor, vacated the Property in January 2008. To ensure continued occupancy and rental income until the available space could be leased to a suitable tenant, the Debtors leased the space at a below market rent.

In 2009, after significant effort and additional investment, the Debtors procured a letter of intent with Retail Brand Alliance, Inc. dba Brooks Brothers ("Brooks Brothers"), which set forth the terms on which Brooks Brothers would become a major tenant in the Property at an attractive rental rate. The letter of intent matured into a signed lease (the "Brooks Brothers Lease"), which was last signed by the Debtors and Brooks Brothers in November 2010. Eurohypo approved the terms of the letter of intent and the resulting Brooks Brothers Lease. Before the Petition Date, the Debtors began to prepare the Brooks Brothers space for lease (in accordance with the terms of the Brooks Brothers Lease) and, at all times since, have undertaken efforts to make sure that the Brooks Brothers space is in compliance with the Brooks Brothers Lease. Among those efforts, the Debtors have unsuccessfully sought a subordination, non-disturbance and attornment agreement (an "SNDA"), in the form wholly consistent with that approved in the Loan Agreement, from their



1 lender for the benefit of Brooks Brothers. The Debtors submitted a request to Square Mile (as  
2 defined below) before filing their chapter 11 cases, but Square Mile insisted on certain conditions,  
3 including that the Debtors post all of the costs to prepare the Brooks Brothers' space, and Square  
4 Mile would not approve an extension of the Loan. Brooks Brothers has not yet occupied the space,  
5 but it is anticipated that Brooks Brothers will open its doors to the public, and commence paying  
6 rent, as early as September 2012.

7 **B. Events Leading Up To The Filing Of The Chapter 11 Petition.**

8 The Loan matured on August 1, 2010, subject to certain extension rights, while the  
9 Debtors were negotiating with Brooks Brothers regarding the terms of the agreement that ultimately  
10 matured into the Brooks Brothers Lease. During this period and until it later purported to assign its  
11 interest in the Loan Agreement, Eurohypo was keenly interested in the Debtors coming to terms with  
12 Brooks Brothers regarding the Brooks Brothers Lease. Eurohypo frequently requested, and was  
13 provided with, updates regarding the status of negotiations with Brooks Brothers. The Debtors  
14 initiated discussions with Eurohypo regarding extension of the Loan or repayment on terms that  
15 would have paid Eurohypo and permitted the Debtors to retain their interest in the substantial equity  
16 that they would create through their discussions with Brooks Brothers. As a part of those  
17 discussions, Eurohypo and certain insiders of the Debtors negotiated potential resolutions that  
18 included the purchase of the Mortgage Note from Eurohypo. While those discussions were ongoing,  
19 in December 2010, Eurohypo informed the Debtors that Eurohypo had purportedly assigned its  
20 interest in the Mortgage Note to Post Investors LLC ("Post Investors"), an affiliate of Square Mile  
21 Capital Management, LLC ("Square Mile"), without the approval and notice to the Debtors required  
22 in the Loan Agreement. The Debtors are informed and believe that Post Investors purchased the  
23 Mortgage Note for approximately \$46 million – a substantial discount from the face amount of the  
24 Mortgage Note, and far less than the Debtors propose to pay on account of the Mortgage Note under  
25 the Plan – with the intent of acquiring the Property. When Post Investors sent the Debtors a "pre-  
26 negotiation agreement," Post Investors requested that the Debtors waive any rights related to its  
27 violation of the terms of the Loan Agreement, which the Debtors declined to do. On January 6,  
28 2011, Post Investors caused First American Title Insurance Company ("First American") to record a

1 notice of default against the Property and began to charge default interest on the Loan accruing at  
2 roughly \$400,000 per month. Post Investors at all times has refused to execute an SNDA in favor of  
3 Brooks Brothers, notwithstanding the enhancement to the value of the Property associated with the  
4 implementation of the Brooks Brothers Lease.

5 Post Street filed a petition for relief on the Post Street Petition Date in an effort to  
6 assure the repayment of the its unsecured creditors and to maximize the value of the Property, which  
7 can be obtained only if the Debtors are able to implement the lease with Brooks Brothers, while  
8 paying the Mortgage Lender in full. Post 240 filed its petition for relief on the Post 240 Petition  
9 Date, with the same objective, to ensure the complete resolution of all matters affecting the Property  
10 and payment in full of all claims against the Debtors.

11 **C. Events During The Chapter 11 Case.**

12 Post Street's Reorganization Case has been pending for approximately four months.  
13 Post 240's Reorganization Case was just filed on October 19, 2011. The Debtors' have not sought  
14 authority to use cash collateral, but may, before confirmation of the Plan, to perform certain  
15 obligations under the Brooks Brothers Lease.

16 Prepetition, the Debtors were involved in litigation with Eurohypo and Post Investors,  
17 which the Debtors initiated by filing a complaint on May 5, 2011 in state court (the "Complaint").  
18 By the Complaint, Debtors contended, among other things, that Eurohypo's purported assignment of  
19 its rights under the Loan Agreement to Post Investors was void and that Eurohypo and Post Investors  
20 had breached the Loan Agreement and their fiduciary duties. Post Street removed the claims set  
21 forth in the Complaint to the Bankruptcy Court on July 6, 2011, initiating adversary proceeding  
22 number 11-03143 (the "Adversary Proceeding"). On August 3, 2011, Square Mile and Post  
23 Investors moved to dismiss the Complaint, and on September 8, 2011, the Bankruptcy Court entered  
24 an order dismissing the Complaint with leave to amend, except with respect to any claim for  
25 injunctive or declaratory relief related to the assignment of the Mortgage Note and any claim  
26 asserting breach of fiduciary duty or seeking the imposition of a constructive trust. The Debtors  
27 have timely filed an amended Complaint.  
28

1 **D. Retention Of Professionals.**

2 Post Street obtained authority to employ Stutman, Treister & Glatt Professional  
3 Corporation (“ST&G”) as its reorganization counsel. Post 240 will also seek to engage ST&G as its  
4 reorganization counsel.

5 The Debtors have employed Lurie, Zepeda, Schmalz and Hogan, A Professional  
6 Corporation, and Nossaman LLP as special litigation counsel to prosecute the Adversary Proceeding.

7 **E. Schedules And Statements Of Affairs and Bar Date.**

8 On June 30, 2011, Post Street timely Filed its Schedules of Assets and Liabilities, as  
9 well as its Statements of Financial Affairs (together, the “Schedules”). Post Street subsequently  
10 amended its Schedules once on August 1, 2011. Post 240 will timely file its Schedules.

11 On June 16, 2011, the Bankruptcy Court entered its *Notice of Chapter 11 Bankruptcy*  
12 *Case, Meeting of Creditors, & Deadlines*, which established October 16, 2011 as the date by which  
13 certain proofs of claim based on prepetition debts or liabilities against Post Street must be filed by  
14 creditors. The Court set February 21, 2012 as the bar date for proofs of claim against Post 240. The  
15 Debtors have requested that bar date concerning Post 240 be amended to facilitate confirmation of  
16 the Plan. If the Court grants the relief requested by the Debtors and amends the bar date with respect  
17 to Post 240, a separate notice will be, or will have been, sent to the Debtors’ creditors.

18 Filing proofs of claim is a separate obligation from voting on the Plan. It is important  
19 that you independently determine whether you need to file a proof of claim.

20 **II.**

21 **FINANCIAL INFORMATION REGARDING THE DEBTOR**

22 **A. Historical Financial Data.**

23 Attached as part of Exhibit 2 to the Disclosure Statement are the Debtors’ historical  
24 financial statements for 2009, 2010 and the first five months of 2011.

25 **B. Financial Projections And Pro Forma Balance Sheet.**

26 Attached hereto as Exhibit 3 is a summary of the conclusions of an appraisal of the  
27 Property. CB Richard Ellis, Inc. completed the appraisal in September 2011, and it includes  
28 projections of the revenue and expenses for the Property.

1            Exhibit 4 sets forth the Debtors' projections of revenues and expenses. These  
2 projections are consistent with the appraisal report but start from January 1, 2012, the approximate  
3 Effective Date of the Plan. Exhibit 5 contains a pro forma consolidated balance sheet, which sets  
4 forth the Debtors' assets, liabilities and shareholders' equity as of the approximate Effective Date,  
5 after the New Capital Contribution (defined below) to be made under the Plan.

6 **C. Financial Information Disclaimers.**

7            **WHILE PRESENTED WITH NUMERICAL SPECIFICITY, THE**  
8 **PROJECTIONS AND THE APPRAISALS ARE BASED UPON A VARIETY OF**  
9 **ASSUMPTIONS (WHICH THE DEBTORS AND THE APPRAISER BELIEVE ARE**  
10 **REASONABLE) AND ARE SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC AND**  
11 **COMPETITIVE UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE**  
12 **BEYOND THE CONTROL OF THE DEBTORS. CONSEQUENTLY, THE INCLUSION OF**  
13 **THE PROJECTIONS SHOULD NOT BE REGARDED AS A REPRESENTATION BY ANY**  
14 **PERSON THAT THE PROJECTIONS WILL BE REALIZED, AND ACTUAL RESULTS**  
15 **MAY VARY MATERIALLY FROM THOSE PRESENTED.**

16            **THE FIGURES AND AMOUNTS REFLECTED IN THIS DISCLOSURE**  
17 **STATEMENT AND ANY ATTACHED EXHIBITS WERE DERIVED AND PREPARED**  
18 **FROM THE DEBTORS' BOOKS AND RECORDS AND THE APPRAISAL. THE**  
19 **DEBTORS ARE UNABLE TO REPRESENT THAT THE FINANCIAL INFORMATION**  
20 **CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE**  
21 **ACCOMPANYING FINANCIAL INFORMATION CONTAINED IN THE EXHIBITS, IS**  
22 **WITHOUT ANY INACCURACY. HOWEVER, THE DEBTORS HAVE MADE**  
23 **REASONABLE EFFORTS, UNDER THE CIRCUMSTANCES TO PRESENT SUCH**  
24 **FINANCIAL INFORMATION FAIRLY.**

25            **III.**

26            **SUMMARY OF THE PLAN OF REORGANIZATION**

27            The Plan is premised upon an immediate infusion of Cash, as new capital to the  
28 Debtors (the "New Capital Contribution"), provided by Stanley W. Gribble, which, together with the

1 Debtors' Cash on hand, shall be used by the Debtors, and shall be in a sufficient amount, to fund the  
2 Brooks Brothers Work (as described further below), establish a working capital reserve for the  
3 Debtors, and pay all Administrative Priority Claims and Priority Tax Claims. Completing the  
4 Brooks Brothers Work will satisfy key conditions precedent to the commencement of Brooks  
5 Brothers' obligation to open for business and pay rent under the Brooks Brothers Lease. The  
6 increased revenue and profitability from the Property, as stabilized by the implemented Brooks  
7 Brothers Lease, together with the Debtors' existing assets and the New Capital Contribution, will be  
8 sufficient to pay (1) all amounts due on the Effective Date, and (2) all amounts that will come due  
9 under the New Mortgage Note. Mr. Gribble is sufficiently confident in the Debtors' ability to pay  
10 these amounts that he is committing to contribute Cash to the Debtors to fund the New Capital  
11 Contribution as equity, which by definition will be junior to all present and future creditors,  
12 including the Mortgage Lender.

13           The Mortgage Lender asserts a Secured Claim against the Debtors based on the Loan  
14 and underlying Mortgage Note. The Plan proposes to provide the Mortgage Lender with a new  
15 promissory note (the "New Mortgage Note") and deed of trust (the "New Deed of Trust")<sup>4</sup>. The  
16 New Mortgage Note shall be in a principal amount equal to the Mortgage Lender's Allowed Claim  
17 as of the Confirmation Date. The principal amount of the New Mortgage Note shall be \$59,532,449,  
18 or such amount determined by the Bankruptcy Court. The New Mortgage Note will be secured by  
19 the New Deed of Trust, which shall grant the Mortgage Lender, among other things, a security  
20 interest in the Property, certain personal property used at the Property, rents, and the subordinate  
21 New Capital Contribution. Thus, the Mortgage Lender will retain a lien on the same collateral it has  
22 now, supplemented by the New Capital Contribution. The value of the Property will be increased  
23 through the Brooks Brothers Work and that portion of the New Capital Contribution that is allocated  
24 to working capital. The Mortgage Lender will receive current monthly interest payments at the rate  
25 that the Bankruptcy Court determines is a fair market rate of interest, which the Debtors believe to

26  
27 <sup>4</sup> The term New Deed of Trust includes any other security agreements necessary to give effect to  
28 the terms of the New Mortgage Note.

1 be 5% per annum.<sup>5</sup> Interest on the New Mortgage Note will be payable monthly in arrears beginning  
2 the second month after the date that the Plan becomes effective. The entire balance of the New  
3 Mortgage Note shall be all due and payable on the date that is five (5) years from the Effective Date.  
4 The Debtors can repay the entire New Mortgage Note at their option before the due date without  
5 penalty.

6           Creditors holding general unsecured Claims not in Class 3, which is described further  
7 below, will receive future cash distributions equal to 100% of their respective Allowed Class 4  
8 Claims, which shall be paid in 4 equal quarterly installments over the year after the Effective Date as  
9 set forth in the Plan.

10           The holders of Post Street Interests and Post 240 Interests will receive no distribution  
11 on account of their existing interests in the Debtors under the Plan. New equity in the Reorganized  
12 Debtors will be issued to the holder of Post Street Interests and Post 240 Interests in exchange for the  
13 New Capital Contribution.

14           The Debtors believe that through the Plan, the holders of Claims in impaired Classes  
15 will obtain a greater recovery than would be available if the Debtors' assets were liquidated on the  
16 Effective Date under chapter 7 of the Bankruptcy Code.

17           THE DESCRIPTION OF THE PLAN SET FORTH HEREIN IS ONLY A  
18 SUMMARY OF SOME OF THE MATERIAL PROVISIONS OF THE PLAN AND IS  
19 QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED PROVISIONS  
20 SET FORTH IN THE PLAN, THE TERMS OF WHICH ARE CONTROLLING OVER THE  
21 SUMMARY SET FORTH BELOW. The Plan is attached hereto as Exhibit 1 and is made a part of  
22 this Disclosure Statement.

23 **A. Summary Of Classification And Treatment Of Claims And Interests Under The**  
24 **Plan.**

25           The following discussion summarizes the classification and treatment of Claims and

26 <sup>5</sup> Until the Mortgage Lender's Claim becomes an Allowed Claim by order of the Bankruptcy  
27 Court, interest payments will be deposited into an escrow account, which will be subject to a  
28 control agreement in favor of Mortgage Lender.

1 interests under the Plan.

2 **1. Unclassified Claims — Administrative And Priority Tax Claims.**

3 In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative  
4 Claims and Priority Tax Claims are not classified under the Plan. The treatment of these  
5 Administrative Claims and Priority Tax Claims is specified in Section III.A of the Plan.

6 **a. Administrative Claims.**

7 **(1) Nature And Amounts.**

8 Administrative Claims are generally comprised of the actual and necessary costs and  
9 expenses of preserving the Estates and operating the business of the Debtors after the relevant  
10 Petition Date. Because Administrative Claims result from matters that occur after the Petition Date,  
11 the Debtors are not presently in a position to estimate the total amount of Administrative Claims that  
12 will eventually be allowed in the Reorganization Cases. All insurance premiums that have come due  
13 following the Petition Dates relating to policies covering the Debtors have been paid current.

14 The Debtors are presently aware of three types of Administrative Claims. The first  
15 type consists of debt incurred by the Debtors in the ordinary course of their business (other than tax  
16 claims) since the relevant Petition Date, including operating expenses. Holders of these types of  
17 Administrative Claims will not be required to File any requests for payment of such claims. Such  
18 Administrative Claims shall be assumed and paid by the Reorganized Debtors pursuant to the terms  
19 and conditions of a particular transaction giving rise to such Administrative Claim, without any  
20 further action by the holders of such claim.

21 The second type of Administrative Claim consists of Administrative Claims of  
22 governmental units for taxes and penalties and/or interest on such taxes. The Debtors do not  
23 anticipate any material Allowed Administrative Claims related to taxes that will not be satisfied by  
24 the Debtors in the ordinary course of their operation after the Petition Dates. The Debtors have paid  
25 current all property tax claims that have come due following the Post Street Petition Date. Real  
26 property taxes for the 2011-2012 fiscal year have not yet come due.

27 The third type of Administrative Claim consists of claims for fees and expenses as  
28 allowed by Order of the Bankruptcy Court for professionals employed by the Debtors. All

1 compensation awarded to professionals under the Bankruptcy Code must be approved by the  
2 Bankruptcy Court. The Debtors anticipate paying all awarded fees and costs promptly after any such  
3 award, and Stanley W. Gribble has agreed to advance the funds necessary to pay such Claims.

4 **(2) Deadlines.**

5 Other than non-tax liabilities incurred in the ordinary course of business by the  
6 Debtors in Possession, requests for payment of Administrative Claims must be Filed no later than 60  
7 days after the Effective Date. Any Holder of an Administrative Claim that is required to File a  
8 request for payment of such claim and that does not file such a request by the applicable bar date  
9 shall be forever barred from asserting such claim against the Debtors, Reorganized Debtors, any  
10 other person or entity, or any of their respective property.

11 **(3) Treatment.**

12 Subject to the applicable bar date provisions, each holder of an Allowed  
13 Administrative Claim shall receive, on account of the Allowed Administrative Claim and in full  
14 satisfaction thereof, Cash equal to the amount of such Allowed Administrative Claim, unless the  
15 holder agrees or shall have agreed to other treatment of such claim. Payment on an Allowed  
16 Administrative Claim incurred in the ordinary course of business will not be made until such  
17 payment otherwise would become due in the ordinary course of the Reorganized Debtors' business.  
18 Distributions on non-ordinary course Allowed Administrative Claims shall occur on the later of the  
19 Effective Date or as soon as practicable after the day upon which such claim becomes an Allowed  
20 Claim, but in no event more than thirty (30) days after entry of a Final Order allowing such claim.

21 **b. Priority Tax Claims.**

22 Priority Tax Claims are comprised of claims of federal, state and local governmental  
23 units for taxes, interest and penalties for certain periods specified in section 507(a) of the Bankruptcy  
24 Code. The Debtors are unaware of any Priority Tax Claims that are likely to be material.

25 In accordance with section 1129(a)(9)(C) of the Bankruptcy Code, except as  
26 otherwise agreed to by the parties, each holder of an Allowed Priority Tax Claim shall receive from  
27 the Reorganized Debtors deferred Cash payments over a period not exceeding five (5) years from the  
28 date of assessment of such claim. Payments shall be made in equal quarterly installments and each



1 installment shall include simple interest accrued on the unpaid portion of such claim at the rate of  
2 5% per annum from and after the Effective Date; provided, however, that the Reorganized Debtors  
3 reserve the right to pay any Allowed Priority Tax Claim, or any remaining balance of such claim, in  
4 full, at any time on or after the Effective Date, without premium or penalty.

5 **2. Classified Claims.**

6 **a. Classes Of Claims And Interests.**

7 The following is a designation of the classes of Claims and interests under the Plan.

8 **(1) Secured Claims.**

9 **(a) Secured Tax Claims (Class 1).**

10 Class 1 consists of all Claims that are Secured Tax Claims. The Debtors do not  
11 believe there are any Class 1 Claims.

12 If there are any Class 1 Claims, Class 1 is not impaired under the Plan. The holder of  
13 each Allowed Class 1 Claim will receive will receive Cash equal to its Allowed Claim, including  
14 any interest, fees and costs to which it is entitled under Bankruptcy Code §§ 506 & 1124, on the  
15 Effective Date, or such other treatment as the Reorganized Debtors and the holder of an Allowed  
16 Class 1 Claim agree to in writing, on or before the Confirmation Date.

17 **(b) Secured Mortgage Lender Claim (Class 2).**

18 Class 2 consists of the Mortgage Lender's Secured Claim, which is secured by a first  
19 priority security interest in the Property and certain related personal property and rents. The holder  
20 of an Allowed Class 2 Claim will receive, in full satisfaction of its Class 2 Claim, the New Mortgage  
21 Note and New Deed of Trust. The terms and conditions of the New Mortgage Note and New Deed  
22 of Trust will be substantially similar in all material respects to the terms and conditions of the  
23 Secured Mortgage Note, except as set forth below:

24 (a) Principal: The principal amount of the New Mortgage Note shall be equal to  
25 the Mortgage Lender's claim as of the Effective Date, which shall be  
\$59,532,449 or such amount as determined by the Bankruptcy Court.

26 (b) Interest Payments: Interest only shall be payable monthly in arrears at the rate  
27 of 5% per annum or such rate set by the Bankruptcy Court at the Confirmation  
Hearing. The first monthly interest payment shall be payable on or before the  
28 tenth (10th) day of the second month following the Effective Date and on or  
before the tenth (10th) day of each successive month. All Cash on hand,

1 including Cash that is subject to Mortgage Lender's lien, as of the Effective  
2 Date, shall be contributed to the Debtors' working capital, which, with the  
3 New Capital Contribution, shall serve to effectuate the terms of this Plan,  
4 including providing assurance of the timely payment of interest.

5 (c) Escrow of Funds Pending Resolution of Dispute: To the extent that payments  
6 under the New Mortgage Note become due before the aggregate amount of the  
7 Mortgage Lender's Allowed Class 2 Claim, is determined by a Bankruptcy  
8 Court order or agreement among the Debtors and Square Mile, such payments  
9 will be made to an escrow account subject to a control agreement in favor of  
10 Mortgage Lender, in satisfaction of the Debtors' obligation to make such  
11 payments. In the event that such payments exceed the amount due as a result  
12 of the Bankruptcy Court's determination of the amount of the Allowed Class 2  
13 Claim, such excess payments will be returned to Debtors.

14 (d) Maturity: All unpaid amounts due under the New Mortgage Note, including  
15 principal, shall be due and payable on the date that is five (5) years from the  
16 Effective Date. The Reorganized Debtors may prepay the outstanding  
17 principal and interest at any time without penalty.

18 (e) Cure Period upon Default: The Reorganized Debtors shall have fifteen (15)  
19 days following a written Plan Default Notice of a default to cure any monetary  
20 Plan Default and thirty (30) days to cure any other asserted Plan Default under  
21 the New Mortgage Note. If the Reorganized Debtors fail to cure any such  
22 default, the Mortgage Lender's rights and remedies will be governed by the  
23 New Mortgage Note, the New Deed of Trust, and applicable California law.

24 Except as otherwise provided in the Plan, the New Mortgage Note, or the New Deed  
25 of Trust, and notwithstanding Section 1146(a) or any other provision of the Bankruptcy Code, any  
26 and all valid, enforceable, and perfected prepetition liens, deeds of trust, or security interests against  
27 the Property and/or any other Estate Asset shall survive the Effective Date and continue in  
28 accordance with the terms of the New Deed of Trust and/or applicable nonbankruptcy law until the  
holder's Allowed Class 2 Claim is satisfied pursuant to this Plan; provided, however, said holder  
shall be prohibited from exercising any rights and remedies pursuant to the New Deed of Trust or the  
Guarantees so long as the Reorganized Debtors have not defaulted, without cure, on their obligations  
under the New Mortgage Note and the New Deed of Trust; provided further, that upon receipt of the  
payments required hereunder, the Reorganized Debtors and the Mortgage Lender shall promptly  
make such customary arrangements and execute such customary documents, as mutually agreed  
upon, to effectuate a release of Mortgage Lender's security interests or liens in the Reorganized  
Debtors' assets. In consideration for the payment in full of its Allowed Class 2 Claim, Mortgage  
Lender shall be deemed to have executed an SNDA in favor of Brooks Brothers, consistent with the

1 form of SDNA set forth in the Loan Agreement, as of the Effective Date. The Bankruptcy Court  
2 shall retain jurisdiction to resolve any disputes which may arise in connection with the foregoing  
3 matters.

4 Such treatment will provide the holder of an Allowed Class 2 Claim with deferred  
5 cash payments totaling more than the allowed amount of its claim, of a value, as of the Effective  
6 Date, greater than or equal to the value of such holder's interest in the Estates' interest in the  
7 Mortgage Lender's collateral.

8 **(2) Unsecured Claims.**

9 **(a) Other Priority Claims (Class 3).**

10 Class 3 consists of all Other Priority Claims. Class 3 is not impaired under the Plan.  
11 Each holder of an Allowed Class 3 Claim will be paid in Cash, in full, with interest at the Judgment  
12 Rate, on the Distribution Date.

13 **(b) General Unsecured Claims (Class 4).**

14 Class 4 consists of all General Unsecured Claims not in Class 3. Class 4 is impaired  
15 under the Plan. Each holder of an Allowed Class 4 Claim will receive quarterly Cash payments over  
16 one (1) year following the Effective Date, plus simple interest at the Judgment Rate per annum,  
17 which will in the aggregate equal 100% of the amount of its Allowed Claim as of the Effective Date.

18 **(3) Interests.**

19 **(a) Post Street Interests (Class 5).**

20 Class 5 consists of the Post Street Interests. The holder of Class 5 Post Street  
21 Interests shall receive no distribution under the Plan on account of that interest and, therefore, shall  
22 be deemed to have rejected the Plan pursuant to Bankruptcy Code § 1126(g).

23 **(b) Post 240 Interests (Class 6).**

24 Class 6 consists of the Post 240 Interests. The holder of Class 6 Post 240 Interests  
25 shall receive no distribution under the Plan on account of that interest and, therefore, shall be  
26 deemed to have rejected the Plan pursuant to Bankruptcy Code § 1126(g).

27 **B. Executory Contracts And Unexpired Leases.**

28 Subject to certain limitations, the Debtors have the right, subject to Bankruptcy Court

1 approval, to assume or reject any executory contract or unexpired lease entered into before the  
2 Petition Date. Generally, damages resulting to the other party from a rejection are treated as an  
3 unsecured Claim arising before the Petition Date and included in the appropriate class to the extent  
4 such claim is allowed by the Bankruptcy Court.

5 **1. Assumption.**

6 Each executory contract or unexpired lease of the Debtors that has not expired by its  
7 own terms before the Effective Date or previously been rejected by the Debtors in Possession, that is  
8 listed on the "Schedule of Executory Contracts and Unexpired Leases to be Assumed," Filed as  
9 Exhibit IV.A. to the Plan; is assumed, as of the Effective Date, pursuant to Bankruptcy Code  
10 section 365.

11 **2. Cure Payments.**

12 Any monetary defaults under each executory contract and unexpired lease assumed  
13 under the Plan shall be satisfied under section 365(b)(1) of the Bankruptcy Code either by payment  
14 of the cure amount (if any) in Cash on the Effective Date, or on such other terms as agreed to by the  
15 Reorganized Debtors and the non-debtor party to the executory contract or unexpired lease. Unless  
16 the non-debtor party to any executory contract or unexpired lease to be assumed Files and serves on  
17 the Debtors and their counsel an objection to the "cure amount" specified on Exhibit IV.A. (which  
18 Exhibit shall be Filed by the Exhibit Filing Date) on or before the last date established by the  
19 Bankruptcy Court to File and serve objections to confirmation of the Plan, such "cure amount" shall  
20 be forever binding on such non-debtor party to said executory contract or unexpired lease. In the  
21 event of a timely Filed and served objection regarding (1) the amount of any cure payments, (2) the  
22 ability of the Reorganized Debtors to provide adequate assurance of future performance under the  
23 contract or lease to be assumed, or (3) any other matter pertaining to assumption, any cure payment  
24 required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final  
25 Order resolving the dispute and approving assumption.

26 **3. Rejection.**

27 Effective immediately before the Effective Date, each executory contract or  
28 unexpired lease of the Debtors not listed on the "Schedule of Executory Contracts and Unexpired

1 Leases to be Assumed,” Filed as Exhibit IV.A. to the Plan, including without limitation each such  
2 executory contract or unexpired lease that the Debtors list on the “Schedule of Executory Contracts  
3 and Unexpired Leases to be Rejected,” Filed as Exhibit IV.C. to the Plan is rejected, to the extent, if  
4 any, that they constitute executory contracts or unexpired leases, and without conceding that they  
5 constitute executory contracts or unexpired leases or that the Debtors have any liability under them.  
6 Listing a contract or lease on Exhibit IV.C. is not an admission by the Debtors or Reorganized  
7 Debtors that such contract or lease is an executory contract or unexpired lease or that the Debtors or  
8 Reorganized Debtors have any liability thereunder. The Debtors shall file Exhibit IV.A. and IV.C.  
9 on before [                    ]. The Debtors reserve the right at any time before Confirmation to amend  
10 Exhibit IV.C. to delete any executory contract or unexpired lease listed on Exhibit IV.C. and provide  
11 for its assumption under section IV.A. above. The Debtors shall provide notice of any amendment  
12 of Exhibit IV.C. to the parties to the affected executory contract or unexpired lease and the Office of  
13 the United States Trustee.

14                   The Confirmation Order shall constitute an Order of the Bankruptcy Court approving  
15 all such rejections as of the Effective Date. Any claim for damages arising from the rejection under  
16 the Plan of an executory contract or unexpired lease must be Filed within sixty (60) days after the  
17 Effective Date or be forever barred and unenforceable against the Debtors, the Reorganized Debtors  
18 and its properties and barred from receiving any distribution under the Plan.

19 **C. Implementation Of The Plan.**

20 **1. Investment in the Property.**

21                   Stanley W. Gribble shall contribute to the Reorganized Debtors on the Effective Date  
22 the New Capital Contribution, which, together with the Debtors’ Cash on hand, shall be sufficient to  
23 (1) fund the Brooks Brothers Work, (2) pay all Administrative Priority Claims and Priority Tax  
24 Claims, and (3) establish a working capital reserve for the Debtors. Completing the Brooks Brothers  
25 Work will ensure that the Debtors’ satisfy their obligations to Brooks Brothers under the Brooks  
26 Brothers Lease and that Brooks Brothers’ obligation to open for business and pay rent under the  
27 Brooks Brothers Lease will commence in approximately September 2012. The implementation of  
28 the Brooks Brothers Lease will increase revenue from and profitability of the Property. That

1 enhancement of revenue, together with the Debtor's existing assets and the New Capital  
2 Contribution, will be sufficient to pay (1) all amounts due on the Effective Date, and (2) all amounts  
3 that will come due under the New Mortgage Note, in addition to generating surplus profit.  
4 Demonstrating the Debtors' confidence in their projections and ability to meet their future  
5 obligations under the Plan, Mr. Gribble is committing to contribute the New Capital Contribution as  
6 equity, which by definition will be junior to all present and future creditors, including the Mortgage  
7 Lender. No distributions shall be made to any holder of Post Street Interests or Post 240 Interests  
8 before Brooks Brothers' obligation to pay rent under the Brooks Brothers Lease has commenced.

9 **2. Execution of the SNDA.**

10 On the Effective Date, the Mortgage Lender shall be deemed to have executed the  
11 SNDA, which is an essential component of implementing the Brooks Brothers Lease. The SNDA  
12 shall be in a form consistent with the form approved under the original Loan Agreement.

13 **3. Revesting of Assets and Operations of Property.**

14 As of the Effective Date, all property of the Post Street Estate shall revest in  
15 Reorganized Post Street and all property of the Post 240 Estate shall revest in Reorganized Post 240  
16 (including each Debtor in Possession bank account), free and clear of all Claims, liens,  
17 encumbrances and other interests of creditors and holders of interests, except as otherwise set forth  
18 herein. From and after the Effective Date, the Reorganized Debtors may operate their business and  
19 use, acquire, and dispose of property and settle and compromise Claims without supervision by the  
20 Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other  
21 than those restrictions expressly imposed by the Plan and the Confirmation Order. Reorganized  
22 Debtors shall have authority to pay any Post-Effective Date Claims in the ordinary course of  
23 business.

24 Interests in the Debtors shall be cancelled on the Effective Date and reissued in  
25 consideration of the New Capital Contribution as set forth in section V.C of the Plan. Management  
26 of the Debtors is not expected to change.

1           **4.       Preservation of Rights of Action and Defenses.**

2           Except to the extent such rights, Claims, causes of action, defenses, and  
3 counterclaims are expressly and specifically released in connection with the Plan or in any  
4 settlement agreement approved during the Reorganization Cases, (i) any and all rights, Claims,  
5 causes of action, defenses, and counterclaims accruing to the Debtors or their estates (including,  
6 without limitation, Avoiding Power Causes of Action) shall remain assets of and vest in the  
7 applicable Reorganized Debtor, whether or not litigation relating thereto is pending on the Effective  
8 Date, and whether or not any such rights, Claims, causes of action, defenses, and counterclaims have  
9 been Scheduled or otherwise listed or referred to in the Plan, or any other document filed with the  
10 Bankruptcy Court, and (ii) neither the Debtors nor the Reorganized Debtors waive, relinquish, or  
11 abandon (nor shall they be estopped or otherwise precluded from asserting) any right, Claim, cause  
12 of action, defense, or counterclaim that constitutes property of either Debtors' estate: (a) whether or  
13 not such right, Claim, cause of action, defense, or counterclaim has been listed or referred to in the  
14 Schedules, the Plan, or any other document filed with the Bankruptcy Court, (b) whether or not such  
15 right, Claim, cause of action, defense, or counterclaim is currently known to the Debtors, and  
16 (c) whether or not a defendant in any litigation relating to such right, Claim, cause of action, defense,  
17 or counterclaim filed a proof of Claim in the Reorganization Cases, filed a notice of appearance or  
18 any other pleading or notice in the Reorganization Cases, voted for or against the Plan, or received  
19 or retained any consideration under the Plan. Without in any manner limiting the scope of the  
20 foregoing, notwithstanding any otherwise applicable principle of law or equity, including, without  
21 limitation, any principles of judicial estoppel, res judicata, collateral estoppel, issue preclusion, or  
22 any similar doctrine, the failure to list, disclose, describe, identify, or refer to a right, Claim, cause of  
23 action, defense, or counterclaim, or potential right, Claim, cause of action, defense, or counterclaim,  
24 in the Debtors' Schedules, the Plan, or any other document filed with the Bankruptcy Court shall in  
25 no manner waive, eliminate, modify, release, or alter the Reorganized Debtors' right to commence,  
26 prosecute, defend against, settle, and realize upon any rights, Claims, causes of action, defenses, or  
27 counterclaims that any of the Debtors or Reorganized Debtors has or may have as of the  
28 Confirmation Date. The Reorganized Debtors may commence, prosecute, defend against, recover on

1 account of, and settle all rights, Claims, causes of action, defenses, and counterclaims in their sole  
2 discretion in accordance with what is in the best interests, and for the benefit, of the Reorganized  
3 Debtors.

4 THE DEBTORS ARE RESERVING THEIR RIGHTS TO OBJECT TO ALL  
5 CLAIMS AND PURSUE ALL LITIGATION AFTER CONFIRMATION. IF YOU HAVE A  
6 QUESTION REGARDING THE DEBTORS' POTENTIAL POST-CONFIRMATION  
7 OBJECTIONS TO CLAIMS OR LITIGATION YOU SHOULD CONTACT STUTMAN,  
8 TREISTER & GLATT, P.C., REORGANIZATION COUNSEL FOR THE DEBTOR, 1901  
9 AVENUE OF THE STARS, 12TH FLOOR; LOS ANGELES, CA 90067; TELEPHONE: (310) 228-  
10 5600; FACSIMILE: (310) 228-5788.

11 **5. Powers of the Reorganized Debtors.**

12 The Reorganized Debtors shall have all the powers and duties set forth in the Plan,  
13 and the Reorganized Debtors' organizational documents, as may be amended, and under applicable  
14 law. Each Reorganized Debtor shall become, on the Effective Date of the Plan, the exclusive  
15 representative of its respective Estate. Subject to the provisions of the Plan, but notwithstanding  
16 whether they are set forth in the Plan, on and after the Effective Date, each of the Estates shall retain  
17 and each Reorganized Debtor may enforce any and all rights, Claims, causes of action, powers,  
18 privileges, licenses, and franchises of such Debtor or Estate, including all rights regarding tax  
19 determinations under Bankruptcy Code section 505, all causes of action arising under the Plan and  
20 the Bankruptcy Code.

21 The Reorganized Debtors shall have the authority to pay any post-Effective Date  
22 Claims in the ordinary course of business.

23 **6. Discharge Of Debtor, Injunction, And Limitation of Liability.**

24 The Plan provides for the discharge of the Debtors, an injunction of certain actions  
25 against the Reorganized Debtors, their successors or respective property, and limitation of liability  
26 for the Debtors, its representatives, officers, directors and certain others present and former directors.  
27 The Plan also provides for a temporary injunction of actions related to certain guarantees executed  
28 by Stanley W. Gribble and Festival Retail Fund 1, L.P. in respect of obligations under the Mortgage



1 Note. **THE PROVISIONS GOVERNING DISCHARGE, INJUNCTION, AND LIMITATION**  
2 **OF LIABILITY ARE NOT EASILY SUBJECT TO SUMMARY. PARTIES IN INTEREST**  
3 **SHOULD CAREFULLY READ SECTIONS V.G.1, V.G.2, AND V.H OF THE PLAN IN**  
4 **THEIR ENTIRETY.**

5 **UNDER THE PLAN, PERSONS HOLDING CLASS 2 CLAIMS SHALL BE**  
6 **ENJOINED FROM TAKING CERTAIN ACTIONS AGAINST THE CONTINGENT**  
7 **GUARANTORS UNLESS AND UNTIL THE DEBTORS DEFAULT UNDER THE NEW**  
8 **MORTGAGE NOTE OR NEW DEED OF TRUST AND FAIL TO CURE ANY SUCH**  
9 **DEFAULT WITHIN THE CURE PERIODS THEREIN. THE MORTGAGE LENDER**  
10 **SHOULD CAREFULLY READ SECTIONS V.G.1, V.G.2, AND V.H OF THE PLAN IN**  
11 **THEIR ENTIRETY.**

12 **7. Retention Of Jurisdiction.**

13 The Plan provides that notwithstanding the entry of the Confirmation Order, the  
14 Bankruptcy Court shall retain such jurisdiction over the Reorganization Cases after the Effective  
15 Date as is legally permissible, including, without limitation, jurisdiction over the broad categories  
16 and matters that are discussed in Section V.J of the Plan.

17 **8. Amendment, Modification And Severability.**

18 a. The Plan may be amended or modified before the Effective Date by the  
19 Debtors to the extent provided by section 1127 of the Bankruptcy Code.

20 b. The Debtors reserve the right to withdraw the Plan before the Confirmation  
21 Date.

22 c. The Debtors reserves the right to modify or amend the Plan upon a  
23 determination by the Bankruptcy Court that the Plan, as it is currently drafted, is not confirmable  
24 pursuant to section 1129 of the Bankruptcy Code. To the extent such a modification or amendment  
25 is permissible under section 1127 of the Bankruptcy Code without the need to resolicit acceptances,  
26 the Debtors reserve the right to sever any provisions of the Plan that the Bankruptcy Court finds  
27 objectionable.

1           **9. Conditions to Effective Date.**

2           The only conditions precedent to Confirmation of the Plan is that the Bankruptcy  
3 Court shall have entered the Confirmation Order in a form acceptable to the Debtors, and that the  
4 New Capital Contribution has been made.

5           **D. Claim Process.**

6           The procedures for objections to claims, delays in distributions with respect to  
7 Disputed Claims, distribution dates, the treatment of unclaimed funds and the delivery of  
8 distributions are set forth in Section VII of the Plan. No distributions will be made on account of  
9 any Disputed Claim until the disputes relating to that Claim are resolved by a Final Order. There  
10 will be no disbursing agent appointed; the Reorganized Debtors shall act as disbursing agent.  
11 Nothing in the Plan shall affect any right of the holder of any claim to include interest accruing  
12 before the Petition Date, but no claim shall be allowed for interest for periods after the Petition Date,  
13 or after the Confirmation Date, except as expressly provided in the Plan and the Debtors reserve the  
14 right to object to all Claims for interest accruing after the Petition Date, except as such interest is  
15 permitted pursuant to Bankruptcy Code § 506(b).

16   **IV.**

17   **CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

18           **A. Introduction.**

19           The implementation of the Plan may have federal, state and local tax consequences to  
20 the Debtors and the Debtors' creditors and stockholders. No tax opinion has been sought or will be  
21 obtained with respect to any tax consequences of the Plan. This Disclosure Statement does not  
22 constitute and is not intended to constitute either a tax opinion or tax advice to any person, and the  
23 summary contained herein is provided for informational purposes only.

24           The discussion below summarizes only certain of the federal income tax  
25 consequences associated with the Plan's implementation. This discussion does not attempt to  
26 comment on all aspects of the federal income tax consequences associated with the Plan, nor does it  
27 attempt to consider various facts or limitations applicable to any particular creditor which may  
28 modify or alter the consequences described herein. A creditor may find that the tax consequences of

1 the Plan to such creditor differ materially from the tax consequences discussed below because of  
2 such creditor's facts and circumstances. This discussion does not address state, local or foreign tax  
3 consequences or the consequences of any federal tax other than the federal income tax.

4 The following discussion is based upon the provisions of the Internal Revenue Code  
5 of 1986, as amended (the "Internal Revenue Code"), the regulations promulgated thereunder,  
6 existing judicial decisions and administrative rulings. In light of the rapidly-changing nature of tax  
7 law, no assurance can be given that legislative, judicial or administrative changes will not be  
8 forthcoming that would affect the accuracy of the discussion below. Any such changes could be  
9 material and could be retroactive with respect to the transactions entered into or completed prior to  
10 the enactment or promulgation thereof. The tax consequences of certain aspects of the Plan are  
11 uncertain due to the lack of applicable legal authority and may be subject to judicial or  
12 administrative interpretations that differ from the discussion below.

13 **CREDITORS ARE ADVISED TO CONSULT WITH THEIR OWN TAX**  
14 **ADVISORS REGARDING THE TAX CONSEQUENCES TO THEM AND TO DEBTORS**  
15 **OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING FEDERAL,**  
16 **STATE, LOCAL AND FOREIGN TAX CONSEQUENCES.**

17 **B. Federal Income Tax Consequences to the Debtors.**

18 **1. Reduction Of Debtors' Indebtedness.**

19 Debt cancellation for tax purposes may occur to the extent creditors are not paid in  
20 full under the Plan and have their Claims discharged on the Confirmation Date pursuant to  
21 Bankruptcy Code section 1141. Any amount of potential discharged indebtedness for federal  
22 income tax purposes will be referred to herein as a "Debt Discharge Amount."

23 In general, the Internal Revenue Code provides that a taxpayer who realizes a  
24 discharge of indebtedness must include the Debt Discharge Amount in its gross income in the  
25 taxable year of discharge to the extent that the Debt Discharge Amount exceeds any consideration  
26 given for such discharge. No income from the discharge of indebtedness is realized to the extent that  
27 payment of the liability being discharged would have given rise to a deduction.

28 The Internal Revenue Code generally permits a taxpayer who is insolvent or in

1 bankruptcy to exclude a Debt Discharge Amount from gross income. In the case of a taxpayer who  
2 is taxed as a partnership, such rule is applied at the partner level, not the partnership level.  
3 Accordingly, Post 240 may pass through to its partners any Debt Discharge Amount, and a partner  
4 may be able to exclude such Debt Discharge Amount from gross income if such partner is insolvent  
5 or in a title 11 case (provided that the discharge is either granted by the court or is pursuant to a plan  
6 approved by the court). Another exclusion from gross income, relating to discharges of qualified  
7 real property business indebtedness, may also conceivably apply depending upon the facts and  
8 circumstances of the underlying debt and the partner's particular situation.

9           The Reorganized Debtors will comply with their tax reporting and filing obligations  
10 with governmental authorities as appropriate and proper under various tax laws and regulations to  
11 which it is subject.

12 **C. Tax Consequences To Creditors.**

13           The tax consequences of the Plan's implementation to a creditor will depend on the  
14 type of consideration received by the creditor in exchange for its Claim, whether the creditor reports  
15 income on the cash or accrual method, whether the creditor receives consideration in more than one  
16 tax year of the creditor, and whether all the consideration received by the creditor is deemed to be  
17 received by that creditor in an integrated transaction. Pursuant to the Plan, holders of certain  
18 Allowed Claims will receive distributions of Cash in exchange for their Allowed Claims. Whether  
19 and the extent to which such a payment to a Creditor holding an Allowed Claim is includible in the  
20 holder's gross income will be determined by reference to the claim in respect of which the  
21 distribution is made. The holder may recognize ordinary income in respect of such payment if the  
22 claim is in respect of an item generating ordinary income, such as wages, to such holder. Similarly,  
23 if a claim is held as part of a trade or business, the holder of such claim may recognize ordinary loss  
24 to the extent that such holder's adjusted basis in the claim exceeds the amount received by such  
25 holder with respect to such claim. Any distribution attributable to accrued but unpaid interest may  
26 be treated as ordinary income, regardless of whether the origin of the claim is capital in nature or  
27 whether gain or loss is otherwise recognized on the Claim.

V.

**VOTING AND PLAN CONFIRMATION STANDARDS**

**A. Voting On The Plan.**

After carefully reviewing the Plan and this Disclosure Statement, including all Exhibits, each holder of a Claim entitled to vote on the Plan should mark its vote on the enclosed ballot ("Ballot") and timely return it in the envelope provided.

**TO BE COUNTED, YOUR BALLOT MUST BE COMPLETELY FILLED IN, SIGNED AND TRANSMITTED IN THE MANNER SPECIFIED IN THE BALLOT SO THAT IT IS RECEIVED BY KENDRA JOHNSON, STUTMAN, TREISTER & GLATT, P.C., 1901 AVENUE OF THE STARS, 12<sup>TH</sup> FLOOR, LOS ANGELES, CALIFORNIA 90067 ON OR BEFORE THE VOTING DEADLINE OF [\_\_\_\_], 2011 AS SPECIFIED IN THE BALLOT.**

**1. Classes Entitled To Vote.**

Whether a holder of a Claim is entitled to vote on the Plan depends on (a) the class in which the Claim is classified and (b) whether that class is "impaired" under the Plan within the meaning of Bankruptcy Code section 1124. Section II of the Plan describes what Claims or equity interests are classified in each class. *See also* Section IV above, "Summary of the Plan of Reorganization." Holders of Allowed Claims in Classes 2 and 4 are entitled to vote to accept or reject the Plan. The holders of Allowed Claims in Class 1, 3, 5, and 6 are not entitled to vote to accept or reject the Plan. The holders of Allowed Claims in Classes 1 and 3 are deemed to have accepted the Plan under Bankruptcy Code § 1126(f), because they are not impaired under the Plan. The holders of interests in Classes 5 and 6 are not entitled to vote to accept or reject the Plan and are deemed to have rejected the Plan under Bankruptcy Code § 1126(g), because they receive nothing under the Plan.

**a. What Is an Allowed Claim.**

As noted above, a creditor must first have an Allowed Claim to have the right to vote. Generally, any proof of claim will be Allowed, unless a party in interest brings a motion objecting to the Claim. When an objection to a Claim is filed, the creditor holding the Claim cannot vote unless

1 the Court, after notice and hearing, either overrules the objection or allows the Claim for voting  
2 purposes.

3 A creditor may have an Allowed Claim even if a proof of claim was not timely filed,  
4 if (1) it is scheduled on the Debtor's schedules and such Claim is not scheduled as disputed,  
5 contingent, or unliquidated, and (2) no party in interest has objected to the Claim.

6 **b. Who is Not Entitled to Vote.**

7 The following three types of Claims are not entitled to vote: (1) Claims that have  
8 been disallowed or are the subject of a pending objection; (2) Claims entitled to priority pursuant to  
9 Code sections 507(a)(1), (a)(2), and (a)(8); (3) claim(s) in Classes 1 or 3, which are deemed to have  
10 accepted the Plan, and (3) interests in Classes 5 and 6, which are deemed to have rejected the Plan.  
11 Claims entitled to priority pursuant to Code sections 507(a)(1), (a)(2), and (a)(7) are not entitled to  
12 vote because such claims are not placed in classes and they are required to receive certain treatment  
13 specified by the Bankruptcy Code. EVEN IF YOUR CLAIM IS OF THE TYPE DESCRIBED  
14 ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE  
15 PLAN.

16 **c. Who Can Vote in More Than One Class.**

17 A creditor whose Claim has been Allowed in part as a secured Claim and in part as an  
18 unsecured Claim is entitled to accept or reject the Plan in both capacities by casting one ballot for the  
19 secured portion of the Claim and another ballot for the unsecured portion of the Claim. The Debtors  
20 do not believe that any creditor in these cases may vote in respect of more than one Class.

21 **d. Votes Necessary to Confirm the Plan.**

22 Because impaired classes exist, the Court cannot confirm the Plan unless (1) at least  
23 one impaired class has accepted the Plan without counting the votes of any insiders within that class,  
24 and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed  
25 by "cramdown" on non-accepting classes, as discussed below in Section V.B.2.

26 **e. Votes Necessary for a Class to Accept the Plan.**

27 A class of Claims will have accepted the Plan if more than one-half (1/2) in number  
28 and at least two-thirds (2/3) in dollar amount of the Claims which actually vote, vote in favor of the

1 Plan.

2 **2. How To Vote.**

3 Procedures for voting are specified in the Disclosure Statement Order and the  
4 Confirmation Hearing Notice distributed with the Disclosure Statement in your solicitation package.  
5 The deadline for voting on the Plan is 5:00 p.m. on [\_\_\_\_], 2011. Your ballot must be  
6 received by Kendra Johnson by such deadline or it will not be counted.

7 **B. Confirmation Of The Plan.**

8 Any interested party desiring further information about the Plan should contact  
9 Kendra Johnson, Paralegal, at (310) 228-5629.

10 **1. Hearing On Confirmation Of The Plan.**

11 The Bankruptcy Court has set a hearing on [\_\_\_\_], 2011, at \_\_\_\_\_.m., in  
12 the Courtroom of the Honorable Thomas E. Carlson, United States Bankruptcy Judge, 235 Pine  
13 Street, Courtroom 23, San Francisco, CA, to determine whether the requirements for Confirmation  
14 of the Plan, including those set forth in section 1129 of the Bankruptcy Code, have been satisfied  
15 with respect to the Debtors. Your attention is directed to the Disclosure Statement Order and the  
16 Confirmation Hearing Notice distributed with the Disclosure Statement in your solicitation package.  
17 Objections to Confirmation of the Plan must be served upon the Debtors' reorganization counsel,  
18 Stutman, Treister & Glatt; Attention: Michael S. Neumeister, Esq.; 1901 Avenue of the Stars, Suite  
19 1200; Los Angeles, CA 90067, by 5:00 p.m. [\_\_\_\_], 2011.

20 **2. Confirmation Of The Plan Without Acceptances Of All Impaired Classes.**

21 The Plan may be confirmed even if not accepted by all impaired classes if at least one  
22 impaired class of Claims (not including the votes of insiders) has accepted it and the Plan does not  
23 "discriminate unfairly" as to the dissenting class(es) and is "fair and equitable" to such class(es).  
24 Generally, the Bankruptcy Code provides that a plan is fair and equitable with respect to a dissenting  
25 class of unsecured claims if either the class receives property of a value on the effective date of the  
26 plan equal to the allowed amounts of the claims or no class that is junior to the dissenting class  
27 receives or retains any property under the plan. Courts have interpreted the "not discriminate  
28 unfairly" requirement to mean that the plan cannot unfairly discriminate against a dissenting class in

1 favor of another class of equal rank with the dissenting class.

2 THE DEBTORS BELIEVE THAT THE PLAN MAY BE CONFIRMED ON A  
3 NONCONSENSUAL BASIS (PROVIDED AT LEAST ONE IMPAIRED CLASS OF CLAIMS  
4 VOTES TO ACCEPT THE PLAN). ACCORDINGLY, THE DEBTORS INTENDS TO  
5 DEMONSTRATE AT THE CONFIRMATION HEARING THAT THE PLAN SATISFIES THE  
6 REQUIREMENTS OF SECTION 1129(b) OF THE BANKRUPTCY CODE AS TO ANY NON-  
7 ACCEPTING CLASS.

8 **C. Feasibility and Risk Factors.**

9 The Debtors have provided an appraisal of the Property and financial projections for  
10 the Reorganized Debtors. The Debtors believes that they will be able to satisfy their obligations  
11 under the Plan and that there should be no need to liquidate or further financially rehabilitate the  
12 Reorganized Debtors in the foreseeable future. Because the Debtors cannot assure the accuracy of  
13 the assumptions on which the projections are based, it can provide no guarantee that the projections  
14 themselves will reflect the Reorganized Debtors' actual future financial performance. Moreover,  
15 projections are by their nature uncertain.

16 **D. Best Interests Of Creditors Test.**

17 Under section 1129(a)(7) of the Bankruptcy Code, to confirm the Plan, each holder of  
18 a claim or equity interest in an impaired class who does not vote to accept the Plan must receive or  
19 retain under the Plan property of a value as of the Effective Date that is not less than the amount that  
20 such holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy  
21 Code as of such date (referred to as the "Best Interests Test").

22 The purpose of the Debtors' liquidation analysis, attached as Exhibit 6 hereto, is to  
23 provide the holders of claims with a means to compare the distributions they would receive under the  
24 Plan with the distributions they would likely receive if the Debtors' case were converted to a case  
25 under chapter 7 of the Bankruptcy Code and the Debtors were then liquidated.

26 In a chapter 7 liquidation, the only money available for distribution to holders of  
27 general unsecured Claims would be net litigation recoveries. If the Debtors' cases were converted to  
28 a case under chapter 7 of the Bankruptcy Code, the Debtors would not be able to implement the



1 Brooks Brothers Lease, which will be implemented only through the infusion of the New Capital  
2 Contribution. In addition, it is likely the executory contracts assumed under the Plan would be  
3 rejected, further increasing the total Allowed Unsecured Claims. The increase in Allowed Claims  
4 would dilute any distribution to unsecured creditors IF any funds were available for distribution to  
5 unsecured creditors.

6 As set forth above, the Plan proposes to create significant new value for creditors,  
7 which value would not be available to creditors if the Debtors were liquidated under chapter 7.

8 **EXHIBIT 6 DEMONSTRATES THAT IF THE MORTGAGE LENDER FORECLOSES OR**  
9 **IF A CHAPTER 7 TRUSTEE SELLS THE PROPERTY AND PAYS PRIORITY CLAIMS**  
10 **AND SECURED CLAIMS FROM THE PROCEEDS THE TRUSTEE WILL HAVE NO**  
11 **FUNDS TO DISTRIBUTE TO OTHER CLASSES BECAUSE THE COSTS OF**

12 **ADMINISTRATION WILL LIKELY EXCEED ANY LITIGATION RECOVERIES.** The  
13 distributions under the Plan are a better result for such creditors than a foreclosure sale of the  
14 Property by the Mortgage Lender. Under the Plan, the Mortgage Lender receives not less than the  
15 present value of its collateral; in a chapter 7 it could not recover anything more. It will, thus, receive  
16 more if the Plan is confirmed than it would receive if the case were converted to a case under chapter  
17 7. This is possible because of the added value the Debtors can provide by obtaining the New Capital  
18 Contribution, paying all priority and administrative claims and generating additional value by  
19 performing the Brooks Brothers Work.

20 The administrative costs of both the chapter 11 and the chapter 7 trustee and his or  
21 her professionals and agents would exceed any cash that could be generated if the Property were sold  
22 by a foreclosure sale. Accordingly, the holders of general unsecured Claims and equity interests  
23 may be expected to receive no distributions pursuant to a chapter 7 liquidation. **As further**  
24 **discussed in Exhibit "6" (Liquidation Analysis), there would likely be no distributions to**  
25 **general unsecured creditors in a chapter 7 case. The Plan is, therefore, in the best interest of**  
26 **creditors.**

1 **VI.**

2 **ALTERNATIVES TO CONFIRMATION OF THE PLAN**

3 The Debtors have evaluated the most likely alternative to the Plan: a foreclosure sale  
4 of the Property by the Mortgage Lender, and have concluded that the Plan is the best alternative, and  
5 confirmation of the Plan will maximize recoveries by parties in interest. Among other things,  
6 converting the Reorganization Case to a chapter 7 liquidation would require significant  
7 administrative costs and would require the Debtors to forfeit the opportunity to create substantial  
8 value from the continued operation of the Property in accordance with the terms of the Plan. *See*  
9 Exhibit "6" (Liquidation Analysis). The Debtors believe that the Plan fairly adjusts the rights of  
10 various Classes of creditors and interest holders consistent with the distribution scheme embodied in  
11 the Bankruptcy Code and enables such parties to realize the most possible under the circumstances.

12 **VII.**

13 **FAILURE OF THE PLAN**

14 If the Debtors fail to perform their obligations under the Plan in any material respect  
15 following confirmation, such failure will be treated as a breach of the Plan and parties in interest will  
16 thereafter be permitted to exercise their respective rights, free from any stay or injunction.  
17 Accordingly, the Mortgage Lender will have the right to enforce its remedies under the New  
18 Mortgage Note and the New Deed of Trust.

19 **VIII.**

20 **RECOMMENDATION**

21 The Debtors recommend that all creditors receiving a Ballot vote in favor of the Plan.  
22 The Debtors believe that the Plan maximizes recoveries to all creditors and, thus, is in their best  
23 interests. The Plan as structured, among other things, allows said parties to participate in  
24 distributions in excess of those that would be available if the Debtors were liquidated under chapter  
25 7 of the Bankruptcy Code, and minimizes delays in recoveries to all creditors.  
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Dated: October 28, 2011

Post Street, LLC

Stanley W. Gribble

By: Stanley W. Gribble

Its: Authorized Agent

Dated: October 28, 2011

Post 240 Partners, L.P.

\_\_\_\_\_

By: Mark A. Surgin

Its: Authorized Agent

Submitted by:

/s/ H Alexander Fisch  
JEFFREY C. KRAUSE,  
ERIC D. GOLDBERG,  
H. ALEXANDER FISCH, and  
MICHAEL S. NEUMEISTER, Members of  
STUTMAN, TREISTER & GLATT  
PROFESSIONAL CORPORATION  
Reorganization Counsel for the Debtor

1 Dated: October 28, 2011

Post Street, LLC

2

3

By: Stanley W. Gribble

4

Its: Authorized Agent

5

6 Dated: October 28, 2011

Post 240 Partners, L.P.

7



8

By: Mark A. Schurgin

9

Its: Authorized Agent

10 Submitted by:

11

12 /s/ H. Alexander Fisch

13 JEFFREY C. KRAUSE,  
14 ERIC D. GOLDBERG,  
15 H. ALEXANDER FISCH, and  
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17 STUTMAN, TREISTER & GLATT  
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19 Reorganization Counsel for the Debtor  
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