

Honorable Brian D. Lynch
Chapter 11
Hearing Date: January 11, 2017
Hearing Time: 10:00 a.m.
Hearing Location: By Telephone
{ *Contact Chambers for Dial-In Information* }
Response Date: January 9, 2017 at 12:00 p.m.

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re:) Case No. 16-44188-BDL
NORTH FORK COMPOSITES LLC,)
Debtor.) AMENDED MOTION FOR ORDER
AND CLEAR OF LIENS, CLAIMS, AND
INTERESTS
and
NOTICE OF HEARING

NOTICE OF HEARING

PLEASE TAKE NOTICE that a hearing on the Debtor's Amended Motion for Order Approving Sale of Assets Free and Clear of Liens, Claims, and Interests (the "Motion"), **IS SET FOR HEARING as follows:**

JUDGE: Brian D. Lynch
DATE: January 11, 2017
TIME: 10:00 a.m.
PLACE: By Telephone
Call Chambers (253-882-3952) for Dial-In Information

AMENDED MOTION FOR ORDER APPROVING SALE OF ASSETS
FREE AND CLEAR OF LIENS, CLAIMS, AND INTERESTS - Page 1

SUSSMAN SHANK LLP
ATTORNEYS AT LAW
1000 SW BROADWAY, SUITE 1400
PORTLAND, OREGON 97205-3089
TELEPHONE (503) 227-1111
FACSIMILE (503) 248-0130

1 **IF YOU OPPOSE** the Motion, you must file your written response with the court clerk,
2 serve two copies on the Judge’s chambers, and deliver copies on the undersigned **NOT**
3 **LATER THAN** the **RESPONSE DATE**, which is January 9, 2017 at 12:00 p.m., Pacific
4 time. **IF NO RESPONSE IS TIMELY FILED AND SERVED**, the Court may, in its
5 discretion, **GRANT THE MOTION PRIOR TO THE HEARING, WITHOUT FURTHER**
6 **NOTICE**, and strike the hearing.

7 **MOTION**

8 North Fork Composites LLC (the “Debtor”) moves the Court for an order
9 approving the sale of all of its (a) inventories, including work in process and finished
10 goods; (b) machinery and equipment; (c) office furniture and equipment; (d) intangible
11 assets, including intellectual property, data, and records related to the business,
12 customer and supplier lists, marketing plans, financial and technical information, trade
13 secrets, know-how, ideas, designs, drawings, specifications, techniques, programs,
14 systems, processes, and computer software, goodwill, trade names, Internet domain
15 names, telephone numbers, fax numbers, e-mail addresses, and other similar items,
16 together with associated listings and registrations, including, without limitation, the trade
17 names “North Fork Composites,” and “Edge Rods”; (e) business supplies, together with
18 the equipment and certain tangible personal property, and (f) Client’s 100%
19 membership interest in Edge Rods LLC, a Washington limited liability company (the
20 “Assets”), to Composite Ventures LLC, a Washington limited liability company (“CV”),
21 free and clear of liens, claims, and interests pursuant to Sections 105(a), 363, and 365
22 of the Bankruptcy Code, Rules 2002, 6004, and 6006 of the Bankruptcy Rules, and
23 applicable Local Bankruptcy Rules, and hereby moves the Court for entry of an order
24 (the “Sale Order”) substantially in the form attached hereto as **Exhibit 1** authorizing and
25 approving the sale of the Assets in the manner described in the Amended and Restated
26 Asset Purchase Agreement (the “APA”) dated December 29, 2016 between North Fork

1 Composites LLC, as Seller, and Composite Ventures LLC, as Purchaser, attached as
2 Exhibit 1 to the Declaration of Aleksandr Maslov filed herewith (“Maslov Decl.”),
3 including that the Assets will be sold free and clear of all liens, claims, and interests,
4 and waiving the 14-day waiting period in Bankruptcy Rule 6004(h).

5 This Motion is supported by the Court’s records and files, the Maslov Decl., and
6 the Memorandum in Support filed herewith.

7 Dated this 30th day of December, 2016.

8 SUSSMAN SHANK LLP

9 */s/ Thomas W. Stilley*

10 By: _____
11 Thomas W. Stilley, WSBA #21718
Attorneys for Debtor and Debtor-in-
Possession

12 *23775-002\AMENDED MOTION TO SELL ASSETS (FINAL FILED WITH THE COURT ON 123016) (02472446);1

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IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re:)
NORTH FORK COMPOSITES LLC,)
Debtor.)
_____)

Case No. 16-44188-BDL
[PROPOSED] ORDER AUTHORIZING
SALE OF ASSETS FREE AND CLEAR
OF LIENS, CLAIMS, AND INTERESTS

The Debtor's Amended Motion for Order Approving Sale of Assets Free and Clear of Liens, Claims, and Interests [ECF Doc. No. ____] (the "Motion") came on for hearing on January 11, 2017; Thomas W. Stilley appeared on behalf of the Debtor, and other appearances were noted in the Court's record; reasonable and adequate notice of the hearing on the Motion and the relief sought therein having been provided to all parties required to be given notice under the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Western District of Washington; the objections to the Motion having either been resolved, overruled, or withdrawn on the record for the reasons stated; the Court having considered the Motion, as well as any opposition to the Motion, any reply thereto, the evidence presented, offers of proof, and the

1 arguments of counsel; the Court having stated its findings of fact and conclusions of law
2 on the record; and good cause appearing, it is hereby

3 ORDERED:

4 1. The Motion is granted;

5 2. The sale of assets (the "Assets") by the Debtors to Composite Ventures
6 LLC, a Washington limited liability company ("Purchaser"), as described in the Amended
7 and Restated Asset Purchase Agreement attached hereto as Exhibit "A" (the "APA")
8 and pursuant to the terms set forth in the Motion is approved pursuant to
9 Sections 105(a), 363(b) and (f) of the Bankruptcy Code,¹ on the terms and conditions
10 set forth in the APA;

11 3. The sale to Purchaser under the APA and this Order shall be binding in all
12 respects upon the Debtor, its estate, its creditors, its interest holders, any affected third
13 parties, including, but not limited to, all persons asserting a lien, claim, or interest in the
14 Assets, and all parties in interest in the case and their respective successors and
15 assigns, including any subsequently appointed trustee for the Debtor under any chapter
16 of the Bankruptcy Code, and shall inure to the benefit of Purchaser, and its affiliates,
17 successors, and assigns;

18 4. The purchase of the Assets shall not subject the Purchaser to any liability
19 for any claims from any person or entity, except as expressly provided for in the APA,
20 and the purchase of the Assets shall not constitute a consolidation, merger, or *de facto*
21 merger of the Purchaser and the Debtor or its bankruptcy estate, or a continuation of
22 the business of the Debtor or the bankruptcy estate, and the Purchaser is released from
23 any potential liability in connection with the purchase of the Assets;

24 5. The Debtor is authorized to execute, deliver, and perform the terms of the
25 APA. Pursuant to Section 363(f) of the Bankruptcy Code, effective upon closing, the

26 _____
¹Capitalized terms not defined herein shall have the meaning ascribed to them in the
Motion, or the APA, as applicable.

ORDER AUTHORIZING SALE OF ASSETS FREE AND
CLEAR OF LIENS, CLAIMS, AND INTERESTS - Page 2

SUSSMAN SHANK LLP
ATTORNEYS AT LAW
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1 sale of the Assets will vest in the Purchaser all right, title, and interest of the Debtor and
2 its bankruptcy estate in the Assets, free and clear of liens, claims, and interests,
3 including, without limitation, the liens, claims, and interests of Columbia Bank (the
4 “Bank”) and any other party holding a lien in the Assets. The liens, claims, and
5 interests, if any, of the Bank and any other party holding a lien, shall attach to the
6 proceeds of the sale with the same force, effect, validity, and priority that previously
7 existed against the Assets and subject to any claims and defenses the Debtor and its
8 bankruptcy estate may possess with respect thereto;

9 6. This Order is and shall be effective as a determination that, upon and
10 subject to the occurrence of the closing of the sale of the Assets, all liens, claims, and
11 interests of the Bank and any other person or entity have been and hereby are
12 adjudged and declared to be unconditionally released as to the Assets, and the Bank
13 and any other person or entity is barred from asserting claims (including, without
14 limitation, any claims for successor liability and any claims arising from unexpired
15 leases or executory contracts that are not assumed by the Debtor and assigned to
16 Purchaser), liens, or interests of any kind or nature against the Purchaser or the Assets
17 that arose prior to closing in accordance with the APA;

18 7. The Debtor is authorized to execute any releases, termination statements,
19 assignments, consents, or instruments that are necessary or appropriate to effectuate
20 or consummate the sale. The Debtor, and any escrow agent upon the written
21 instructions of the Debtor, are authorized to make such disbursements on or after the
22 closing as are required by the APA or order of this Court. The Debtor is further
23 authorized to execute such other documents related to the APA as may be reasonably
24 necessary or appropriate to complete the sale, and the Debtor is authorized to
25 undertake such other actions as may be reasonably necessary or appropriate to
26 complete the sale;

1 8. Except as expressly set forth in the APA, Purchaser has not assumed any
2 liabilities of the Debtor. The purchase of the Assets by the Purchaser shall not cause
3 the Purchaser to become liable for, and the Purchaser shall not assume, any liabilities
4 owed to the Debtor's employees, including any liabilities related to employment
5 practices, COBRA, equal employment opportunity, nondiscrimination, harassment,
6 wrongful termination, breach of contract, immigration, wage and hour laws, any other
7 state, federal, or local labor and employment laws, liability under the WARN Act or any
8 similarly applicable state law, salaries, vacation, sick pay, incentives, severance pay,
9 bonus, overtime, meal period, pension, profit sharing, retirement and/or deferred
10 compensation and any other compensation or benefits, which claims, if any, shall
11 remain the liability of the Debtor;

12 9. The Debtor is authorized to assume and assign to the Purchaser any
13 executory contracts and intellectual property rights associated with the Assets that
14 require an assignment pursuant to Section 365 of the Bankruptcy Code;

15 10. The Court finds that the Debtor has taken all necessary steps to obtain the
16 highest or best value for the Assets, the terms of the APA are fair and reasonable, the
17 sale will provide a greater recovery for the bankruptcy estate than would be provided by
18 any other alternative, and the sale is in the best interest of creditors;

19 11. The APA and any related documents or instruments may be modified,
20 amended, or supplemented by the parties thereto, in a writing, signed by both parties,
21 without further order of the Court, provided, however, that any such modification,
22 amendment, or supplement does not have a material adverse effect on the Debtor or its
23 bankruptcy estate;

24 12. The Court retains jurisdiction to enforce and implement the terms and
25 provisions of this Order, all amendments thereto, any waivers and consents thereunder,
26 and each of the documents executed in connection therewith in all respects. The APA

1 and the transactions contemplated thereby may be specifically enforced against and
2 binding upon, and not subject to rejection or avoidance by, the Debtor or any Chapter 7
3 or Chapter 11 trustee of the bankruptcy estate; and

4 13. The stay under Rules 6004(h) and 6006(d) of the Federal Rules of
5 Bankruptcy Procedure are hereby ordered waived. This Order is effective and
6 enforceable immediately upon its entry, and the sale may close immediately upon entry
7 of this Order, notwithstanding any otherwise applicable waiting periods.

8 ### End of Order ###

9 PRESENTED BY:

10 SUSSMAN SHANK LLP

11
12 By: _____
13 Thomas W. Stilley, WSBA 21718
14 1000 SW Broadway, Suite 1400
15 Portland, OR 97205
503-227-1111
tstilley@sussmanshank.com
Attorneys for the Debtor

16 *23775-002\ORDER APPROVING SALE OF ASSETS (12/29/16) (02472643);1

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Honorable Brian D. Lynch
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IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re:) Case No. 16-44188-BDL
NORTH FORK COMPOSITES LLC,)
Debtor.) MEMORANDUM IN SUPPORT OF
AMENDED MOTION FOR ORDER
APPROVING SALE OF ASSETS FREE
AND CLEAR OF LIENS, CLAIMS, AND
INTERESTS

North Fork Composites LLC submits this Memorandum in support of its Amended Motion for Order Approving Sale of Assets Free and Clear of Liens, Claims, and Interests (the "Motion").

JURISDICTION

The Court has jurisdiction to hear and determine the Motion pursuant to 28 USC §§ 157(b)(1) and 1334(a). This is a core proceeding pursuant to 28 USC § 157(b)(2)(A), (N) and (O). Venue is proper in this District and in the Court pursuant to 28 USC §§ 1408. The statutory predicates for the relief requested in the Motion are Sections 363(b) and (f) of the Bankruptcy Code and Bankruptcy Rules 2002(a)(2) and (c)(1), 6004(a), (c), (f), (h), and 9014.

FACTUAL BACKGROUND

1. On October 7, 2016 (the "Petition Date"), the Debtor filed a petition for relief under Chapter 11 of the Bankruptcy Code.

1 2. Columbia Bank (the “Bank”) holds a perfected security interest in
2 inventory, equipment, accounts, and general intangibles, which includes all of the items
3 to be sold. Declaration of Aleksandr Maslov (“Maslov Decl.”), ¶ 2. As of the Petition
4 Date, the Debtor owed approximately \$57,000 to the Bank. Maslov Decl., ¶ 2. The
5 Debtor proposes to pay the balance owing to the Bank out of the net sales proceeds.

6 3. Debtor filed this Chapter 11 case in the face of mounting litigation
7 expenses in a lawsuit entitled *North Fork Composites LLC v. Jon Bial, et al* pending in
8 Clark County Superior Court, in which the Debtor and Bial were both claiming breach of
9 Bial’s employment relationship with the Debtor. Bial was the former general counsel
10 and general manager of the Debtor. Maslov Decl., ¶ 3. Upon filing this bankruptcy
11 case, the Debtor removed the Bial lawsuit to this Court. Bial filed a motion to remand
12 the lawsuit to state court and for relief from stay to allow the lawsuit to proceed. (See
13 ECF Doc. No. 20 (Main Case); ECF Doc. No. 3 (Adv. Proc. 16-04214)). The Court
14 denied both motions at a hearing on November 22, 2014 [ECF No. 58, Main Case; ECF
15 No. 12, Adv. Proc.].

16 4. On December 5, 2016, the Debtor filed its Motion for Orders Approving
17 (A) Marketing Plan and Bid Procedures for Sale of Assets Free and Clear of Liens,
18 Claims, and Interests, (B) Approving Form of Notice of Sale; (C) Scheduling a Hearing
19 to Finally Approve the Sale; and (D) Finally Approving the Sale [ECF No. 63] (the “Bid
20 Procedures Motion”). On December 12, 2016, the Court held a hearing on the Bid
21 Procedures Motion at which the Debtor announced it had settled all of the claims
22 between the Debtor and Bial for \$15,000, which settlement would enable the Debtor to
23 proceed with a sale of its assets to Composite Ventures LLC (“CV”) that is expected to
24 provide sufficient funds to pay all remaining creditors’ claims in full. The Debtor and CV
25 have entered into an Amended Asset Purchase Agreement (the “APA”) dated
26 December 29, 2016, a copy of which is attached to the Maslov Decl. as Exhibit 1, which

1 sets forth the terms and provisions of the proposed sale to CV. CV has been formed by
2 the Debtor's members and its officers, who are the largest unsecured creditors of the
3 Debtor. Supplemental Declaration of Aleksandr Maslov [ECF No. 53-2] ("Maslov
4 Decl."), ¶ 7.

5 5. The APA provides that CV will purchase all of the Debtor's (a) inventories,
6 including work in process and finished goods; (b) machinery and equipment; (c) office
7 furniture and equipment; (d) intangible assets, including intellectual property, data, and
8 records related to the business, customer and supplier lists, marketing plans, financial
9 and technical information, trade secrets, know-how, ideas, designs, drawings,
10 specifications, techniques, programs, systems, processes, and computer software,
11 goodwill, trade names, Internet domain names, telephone numbers, fax numbers, e-mail
12 addresses, and other similar items, together with associated listings and registrations,
13 including without limitation the trade names "North Fork Composites" and "Edge Rods";
14 (e) business supplies, together with the equipment and certain tangible personal
15 property; and (f) Client's 100% membership interest in Edge Rods LLC, a Washington
16 limited liability company equipment, inventory, raw materials, supplies, and general
17 intangibles, and its 100% membership interest in Edge Rods LLC, but excluding the
18 Debtor's cash and accounts receivable (the "Assets"). The Purchase Price for the
19 Assets consists of: (i) \$100,000, plus the value of Debtor's inventory at cost in cash as
20 of the closing date, (ii) the assumption and payment of all prepetition trade debt totaling
21 approximately \$143,746, (iii) the assumption of all prepetition and postpetition warranty
22 claims, (iv) the assumption and payment of all pre-petition federal and state tax liabilities
23 totaling approximately \$25,000, and (v) the payment of any administrative expense
24 claims that remain unpaid following the sale and liquidation of the Debtor's assets and
25 payment of administrative expense claims. CV's members, managers, and officers,
26 together with Michael Darland who loaned money to Gary Loomis and/or the Debtor,

1 whose claims total approximately \$1,600,000 will waive their claims against the Debtor
2 and will not receive any payment from the Debtor on their claims.

3 6. The sale to CV will result in Columbia Bank's secured claim being paid in
4 full, all trade creditors receiving payment in full along with the ability to do further
5 business with the Purchaser, all tax claims being paid in full, and the remaining cash
6 plus additional sums as necessary from Purchaser to pay any unpaid administrative
7 expenses. The Debtor believes that a sale to CV is in the best interest of creditors and
8 the estate, and is the only viable alternative absent conversion of the case to Chapter 7.
9 Furthermore, CV intends to operate its business in the Woodland, Washington area,
10 and will provide employment opportunities to all of the Debtor's existing employees.
11 Supp. Maslov Decl., ¶ 8.

12 7. The Debtor has requested that the Bank consent to the sale and
13 anticipates that it will do so prior to the sale hearing.

14 **PROPOSED SALE TRANSACTION**

15 Pursuant to 11 USC § 363(f), the Debtor proposes to sell the Assets to CV, on
16 the terms and conditions listed in the APA. For convenience the Debtor sets forth some
17 of the material terms of the APA with CV below. The Debtor observes that the APA
18 itself, and not the contents of this motion or any other document filed in this Chapter 11
19 case, shall control in all regards and for all purposes with respect to the sale of the
20 Assets to CV:

21 Assets to be Sold: All of the Debtor's equipment, inventory, and general
22 intangibles, including trade secrets, the trade names
23 "North Fork Composites" and "Edge Rods," and the
24 Debtor's 100% membership interest in Edge Rods
25 LLC, excluding cash, accounts receivable, and certain
26 other property described in the APA (the "Assets"
herein, as noted above).

Purchase Price: One Hundred Thousand Dollars (\$100,000) plus the
value of the inventory at cost; assumption and
payment of all pre-petition trade debt totaling

1 approximately \$143,746; assumption of all warranty
2 claims; assumption and payment of the Debtor's pre-
3 petition tax liabilities estimated at approximately
4 \$25,000; and, assumption payment of any
5 administrative expense claims that remain unpaid
6 following the sale and liquidation of the Debtor's
7 assets (the "Purchase Price," as defined in the APA).

6 Sale to
7 Insider:

8 CV is an LLC formed by certain of the Debtor's
9 members, managers, and employees, all of whom
10 hold prepetition and postpetition claims against the
11 Debtor for wages, consulting fees, employee benefits,
12 rent, and/or loans to the Debtor, which claims will be
13 waived and will not receive any payment upon closing
14 of a sale to CV.

11 Agreements with
12 Insiders or
13 Management:

14 Upon closing, all of the Debtor's employees will
15 become at-will employees of CV, and the Debtor's
16 members, managers, and officers will be involved in
17 the operation of CV as members, managers, officers,
18 employees, and/or consultants.

15 Sale Free & Clear:

16 The Sale will be free and clear of liens, claims, and
17 interests.

17 Releases &
18 Insider Benefits:

19 Debtor will release any claims it has against CV, its
20 members, managers, officers, and employees,
21 including any avoidance claims under Chapter 5 of
22 the Bankruptcy Code.

20 Closing, Other
21 Deadlines and
22 Contingencies:

23 Closing (as defined in the APA) shall occur on or
24 about January 13, 2017, which date shall not be later
25 than the last to occur of: (i) five days after the Sale
26 Order has become a final order, and (ii) the full
satisfaction or waiver of the conditions to Closing set
forth in the APA.

25 Interim Arrangements
26 With Proposed
Buyer:

As per the APA, and subject to the terms of any cash
collateral and debtor-in-possession financing orders,

1 the Debtor will continue to manage and operate its
2 business until Closing. CV has provided the Debtor
3 with a DIP line of credit to ensure that the Debtor has
4 sufficient cash resources to pay its obligations prior to
5 closing.

6 Use of Proceeds:

7 The sales proceeds attributable to the Debtor's assets
8 will be used to pay the Debtor's obligations in
9 following order of priority: (1) the Debtor's sales costs
10 and other closing expenses, (2) Columbia Bank's
11 secured claim, (3) the US Trustee's fees, and the
12 Debtor's professional fees and expenses as approved
13 by the Court, and (4) remaining creditors in the order
14 of priority under the Bankruptcy Code.

15 Standard for
16 Approval:

17 The Debtor will seek approval under the best interests
18 of the estate standard and further address reasons for
19 the sale as stated below.

20 Relief from
21 Bankruptcy
22 Rule 6004(h):

23 The Debtor will request relief from the 14-day stay
24 imposed by Bankruptcy Rules 6004(h) so that Closing
25 may proceed with all due haste because of the
26 Debtor's mounting administrative expenses and
expiration of Columbia Bank's agreed use of cash
collateral and the CV DIP financing, and the
requirements of the APA.

27 **MEMORANDUM OF POINTS AND AUTHORITIES**

28 The Court has jurisdiction to hear and determine this Motion pursuant to 28 USC
29 §§ 157(b)(1) and 1334(a). This is a core proceeding pursuant to 28 USC § 157(b)(2)(A),
30 (N) and (O). Venue is proper in this District and in the Court pursuant to 28 USC §§ 1408.
31 The statutory predicates for the relief requested in the Motion are Sections 363(b) and (f)
32 of the Bankruptcy Code and Bankruptcy Rules 2002(a)(2) and (c)(1), 6004(a), (c), (f), (h),
33 and 9014.

34 Section 363 of the Bankruptcy Code provides authority for a debtor in possession
35 "after notice and a hearing, [to] use, sell or lease, other than in the ordinary course of
36

1 business, property of the estate.” 11 USC § 363(b)(1). In considering a proposed sale
2 under Section 363, courts generally focus on whether the sale is in the best interest of
3 the estate based on the facts and history of the case. *In re America West Airlines*, 166
4 B.R. 908, 912 (Bankr. D. Ariz. 1994) (citations omitted). This requires examination of
5 the “business justification” for the proposed sale. *See, e.g., In re 240 North Brand*
6 *Partners Ltd.*, 200 B.R. 653 (BAP 9th Cir. 1996). A debtor in possession is generally
7 permitted to sell property of the estate outside the ordinary course of business where
8 the proposed sale is a sound exercise of the debtor’s business judgment and when the
9 sale is proposed in good faith and for fair value. *See Committee of Equity Security*
10 *Holder v. Lionel Corporation (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983);
11 *In re Ernst Home Ctr., Inc.*, 209 B.R. 974, 980 (Bankr. W.D. Wash. 1997). When a
12 debtor or trustee articulates a reasonable basis for its business decisions, the “court will
13 generally not entertain objections to the debtor’s conduct.” *Comm. Of Asbestos-Related*
14 *Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr.
15 S.D. NY 1986).

16 Courts have also required that the debtor provide reasonable and adequate
17 notice of the sale, that the sale price be fair and reasonable, and that the sale be the
18 result of good faith negotiations with the buyer. *See, e.g., In re Ewell*, 958 F.2d 276 (9th
19 Cir. 1992) (declining to set aside or modify a sale pursuant to 11 USC § 363 because
20 the price was fair and reasonable and the buyer was a good faith purchaser pursuant to
21 11 USC § 363(m)). The Debtor is providing notice of the Motion to the Purchaser, the
22 Bank, Jon Bial and C6, Inc., the Office of the United States Trustee, all creditors, and all
23 parties requesting special notice. The Debtor submits that such notice is adequate and
24 no other or further notice is necessary or required.

25 The Purchaser may constitute an “insider” of the Debtor as that term is defined in
26 11 USC § 101(31) of the Bankruptcy Code because the Debtor’s members, Gary and

1 Susan Loomis, and its officers, Aleksandr Maslov, Nicole Darland, and Collins Illich, may
2 own an interest in and will be involved in the future operation of the Purchaser; however,
3 the negotiation of the sales price is in excess of what the Debtor believes is a fair valuation
4 of the Assets, and in any respect, the sale is expected to result in sufficient funds to pay all
5 creditors in full, either in cash or through the Purchaser's assumption and payment of their
6 claims, once the settlement between the Debtor and Bial is approved by the Court and
7 concluded.

8 The Debtor has requested authorization to sell the Assets free and clear of liens,
9 claims, and interests. Section 363(f) of the Bankruptcy Code authorizes a debtor in
10 possession to sell property "free and clear of any interest in such property of an entity
11 other than the estate" if one or more of the following conditions is satisfied:

- 12 (1) Applicable nonbankruptcy law permits the sale of such property free and
13 clear of such interest;
- 14 (2) Such entity consents;
- 15 (3) Such interest is a lien and the price at which such property is to be sold is
16 greater than the aggregate value of all liens on such property;
- 17 (4) Such interest is in bona fide dispute; or
- 18 (5) Such entity could be compelled, in a legal or equitable proceeding, to
19 accept a money satisfaction of such interest.

20 11 USC § 363(f).

21 Consistent with the use of the term elsewhere in the Bankruptcy Code, courts
22 construe the term "interest" broadly to include all legal and equitable interests in the
23 property and arising from the property. See, *In re Trans World Airlines, Inc.*, 322 F.3d
24 283, 289 (3d Cir. 2003). Applicable case law provides that a sale of a debtor's assets
25 free and clear of liens, claims, and interests, with such liens, claims, and interests
26 attaching to the net proceeds of the sale, is permissible under 11 USC § 363(f). See,
e.g., *In re Goffena*, 175 B.R. 386, 387 (Bankr. D. Mont. 1994); *Folger Adam Sec., Inc. v.*
DeMatteis/MacGregor, JV, 209 F.3d 252, 259 (3d Cir 2000) ("[T]he holdings of the

1 courts suggest that any interest in property that can be reduced to a money satisfaction
2 constitutes a claim for purposes of § 363(f) and, therefore, attaches to the proceeds of
3 the sale.”).

4 One or more of the conditions set forth in 11 USC § 363(f) are satisfied here.
5 The sale may be authorized free and clear of liens pursuant to § 363(f)(2), (3), and (5),
6 because the only person or entity other than the Debtor that holds an interest in the Assets
7 is the Bank. The Debtor anticipates that the Bank will consent to the sale, and even
8 absent the Bank’s consent, the Bank’s interest is a lien and the price at which the Assets
9 are to be sold is greater than the value of the Bank’s lien. § 363(f)(3).

10 In addition, the absence of an objection by holders of interests in the assets to be
11 sold can constitute consent to the sale free and clear of such claims and interests. See
12 *Futuresource LLC v. Reuters Ltd.*, 312 F.3d 281, 285-86 (7th Cir. 2002) (in a sale
13 conducted pursuant to Section 363 of the Bankruptcy Code, “lack of objection (provided
14 of course there is notice) counts as consent.”); *In re Tabone, Inc.*, 175 B.R. 855, 858
15 (Bankr. D. N.J. 1994); *Veltman v. Whetzal*, 93 F.3d 517 (8th Cir. 1996).

16 WHEREFORE, the Debtor prays that the Court enter an order authorizing the
17 sale in the form filed herewith.

18 Dated this 30th day of December, 2016.

19 SUSSMAN SHANK LLP

20 /s/ Thomas W. Stilley
21 By: _____
22 Thomas W. Stilley, WSBA #21718
23 Attorneys for Debtor

24 *23775-002MEMORADUM IN SUPPORT OF MOTION TO SELL ASSETS (FILED WITH THE COURT ON 123016) (02472457);1

Honorable Brian D. Lynch
Chapter 11
Hearing Date: January 11, 2017
Hearing Time: 10:00 a.m.
Hearing Location: By Telephone
{Contact Chambers for Dial-In Information}
Response Date: January 9, 2017 at 12:00 p.m.

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re:)
NORTH FORK COMPOSITES LLC,)
Debtor.)
Case No. 16-44188-BDL
DECLARATION OF ALEKSANDR
MASLOV

I, Aleksandr Maslov, declare as follows:

1. I am a manager and the Chief Executive Officer of North Fork Composites LLC (the "Debtor"). I am over 18 years of age. Except as otherwise stated herein, if I were called as a witness, I could and would competently testify to the matters set forth herein from my own personal knowledge and based on my review of the Debtor's books and records. I am submitting this declaration in support of the Debtor's Amended Motion for Order Approving Sale of Assets Free and Clear of Liens, Claims, and Interests and Debtor's Motion for Approval of Settlement With Jon Bial and C6, Inc.

2. Columbia Bank (the "Bank") holds a perfected security interest in inventory, equipment, accounts, and general intangibles, which includes all of the items to be sold. As of the October 7, 2017 petition date, the Debtor owed approximately \$57,000 to the Bank.

3. Debtor filed this Chapter 11 case in the face of mounting litigation

1 expenses in a lawsuit entitled *North Fork Composites LLC v. Jon Bial, et al* pending in
2 Clark County Superior Court, in which the Debtor and Bial were both claiming breach of
3 Bial's employment relationship with the Debtor. Bial was the former general counsel
4 and general manager of the Debtor.

5 4. The State Court Case involves hotly disputed claims between not only the
6 Debtor and Bial and C6, but also between Bial and C6 and Aleksandr Maslov and Gary
7 Loomis. The Debtor concluded that it could not continue to litigate with Bial and C6
8 considering its limited resources to fund the litigation and also pay its operating
9 expenses, and upon filing Chapter 11, determined that it would need to sell its assets
10 while continuing to operate in order to provide the best return to its creditors.

11 5. The Debtor's members, managers, and officers were willing to form an
12 entity to purchase the assets in a sale under 11 USC §363(f) free and clear of liens,
13 claims, and interests, offer employment to the Debtor's employees, and continue
14 building fishing rods and other products in the Woodland, Washington area.

15 6. Debtor received an offer from Composite Ventures LLC ("CV") for all of the
16 Debtor's (a) inventories, including work in process and finished goods; (b) machinery
17 and equipment; (c) office furniture and equipment; (d) intangible assets, including
18 intellectual property, data and records related to the business, customer and supplier
19 lists, marketing plans, financial and technical information, trade secrets, know-how,
20 ideas, designs, drawings, specifications, techniques, programs, systems, processes,
21 and computer software, goodwill, trade names, Internet domain names, telephone
22 numbers, fax numbers, e-mail addresses, and other similar items, together with
23 associated listings and registrations, including, without limitation the trade names "North
24 Fork Composites" and "Edge Rods"; (e) business supplies, together with the equipment
25 and certain tangible personal property; and (f) Client's 100% membership interest in
26 Edge Rods LLC, a Washington limited liability company equipment, inventory, raw

1 materials, supplies, and general intangibles, and its 100% membership interest in Edge
2 Rods LLC, but excluding the Debtor's cash and accounts receivable (the "Assets") for
3 (i) \$100,000, plus the value of Debtor's inventory at cost in cash as of the closing date,
4 (ii) assumption of all prepetition trade debt totaling approximately \$143,746, plus
5 warranty claims, (iii) assumption and payment of all prepetition tax claims totaling
6 approximately \$25,000, and (iv) payment of all allowed administrative expense claims
7 that remain unpaid once the Debtor's assets have been liquidated and the proceeds
8 distributed. The Amended and Restated Asset Purchase Agreement (the "APA") dated
9 January 29, 2017 between the Debtor and CV is attached hereto as Exhibit 1.

10 7. CV has been formed by the Debtor's members and its officers, who are
11 the largest unsecured creditors of the Debtor.

12 8 CV intends to operate its business in the Woodland, Washington area,
13 and will provide employment opportunities to all of the Debtor's existing employees.

14 9. The Debtor filed a motion to approve the sale to CV, subject to higher and
15 better bids. Jon Bial and the US Trustee objected to the sale, asserting that the
16 proposed sale had not been adequately subjected to the market. The Court sustained
17 the objections and denied the motion.

18 10. After the Court denied the Debtor's initial motion to sell its assets to CV,
19 the Debtor filed a subsequent motion to sell its assets to CV, subject to higher and
20 better bids, and for approval of a marketing plan and bid procedures. The Debtor and
21 Bial and C6 continued to discuss settlement in an effort to resolve Bial's and C6's
22 claims against the Debtor. Just prior to the December 12, 2016 hearing scheduled for
23 the Court to consider approval of the Debtor's marketing plan and bid procedures, the
24 Debtor and Bial and C6 agreed to a settlement, the terms of which have been
25 incorporated into the Settlement Agreement attached hereto as Exhibit 2.

26 11. The Debtor believes its payment of \$15,000 to settle all claims between

1 the Debtor, Bial, and C6 is a fair and reasonable settlement offer considering the facts
2 and circumstances, and considering the costs, risks, and expense to the estate of
3 further litigation with Bial and C6, including the difficulties and costs that would be
4 incurred in concluding a sale of the Debtor's assets if Bial and C6 continued to oppose
5 the sale.

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Dated this 30th day of December, 2016, at Bothell, Washington.

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/s/ Aleksandr Maslov

Aleksandr Maslov

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*23775-002\DECLARATION OF ALEKSANDR MASLOV 363 SALE AND SETTLEMENT WITH BIAL (12-29-16) (02472490);1

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AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

This Amended and Restated Asset Purchase Agreement (the "Agreement") is made and entered into as of the 29th day of December, 2016, by and between North Fork Composites LLC ("Seller"), and Composite Ventures LLC ("Purchaser"), and replaces in its entirety the Asset Purchase Agreement dated December 5, 2016, and any prior amendments thereto.

RECITALS

- A. On October 7, 2016 (the "Petition Date"), Seller filed a petition to reorganize its business under Chapter 11 of the United States Bankruptcy Code ("Bankruptcy Code") and is continuing to operate as the Debtor-in-Possession in Case No. 16-44188-BDL in the United States Bankruptcy Court for the Western District of Washington ("Bankruptcy Court").
- B. Seller's operations include the design, fabrication, and sale of fishing rod blanks, golf club shafts, and similar items for the outdoor sports market. Seller operates its business out of buildings owned by Gary and Susan Loomis located on the Loomis' property at 2617 Northeast 434th, Woodland, Washington 98674 (the "Loomis Buildings").
- C. Seller currently generates approximately \$100,000 per month in sales and incurs expenses of approximately \$90,000-\$100,000 per month, not including bankruptcy related administrative expenses. Seller has determined that without a significant infusion of cash from its members or from another source, it will be unable to remain in business and propose a plan of reorganization that provides a meaningful distribution to creditors. As a result it has made the decision to sell the majority of its assets while still operating, in order to maximize the value of those assets for the benefit of its creditors and the estate, and to cease further manufacturing operations upon closing of the sale.
- D. Purchaser is a Washington limited liability company formed by Seller's members, Gary and Susan Loomis, its chief executive officer, Aleksandr Maslov, its vice president of marketing and development, Nicole Darland, and its president of fishing business, Collins Illich, for the purpose of purchasing from Seller the assets described in this Agreement.
- E. Seller has reached an agreement with Purchaser to sell, subject to Bankruptcy Court approval, all of Seller's (a) inventories, including work in process and finished goods, (b) machinery and equipment, (c) office furniture and equipment, (d) intangible assets, including intellectual property, data and records related to the business, customer and supplier lists, marketing plans, financial and technical information, trade secrets, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, processes, and computer software, goodwill, trade names, Internet domain names, telephone numbers, fax numbers, e-mail addresses, and other similar items, together with associated listings and registrations, including without limitation, the trade names "North

Fork Composites,” and the” and “Edge Rods”, (e) business supplies, together with the equipment and certain tangible personal property, and (f) Client’s 100% membership interest in Edge Rods LLC, a Washington limited liability company (collectively, the “Assets”) to Purchaser for the sum of \$100,000, plus the value of the inventory at cost, plus additional consideration in the form of assumption and payment of (i) the Trade Claims (defined below) totaling approximately \$143,746, (ii) the Tax Claims (defined below) totaling approximately \$25,000, and (iii) the Administrative Claims (defined below), pursuant to this Agreement and Section 363 of the Bankruptcy Code, free and clear of liens, claims, and interests (the “Sale”). The Assets do not include those items of machinery and equipment listed on Exhibit 1 hereto, which are owned by Gary and Susan Loomis.

- F. Columbia Bank (“Columbia”) holds a first position lien upon the Assets (“Columbia’s Lien”), which lien will attach to the proceeds from the sale. As of the Petition Date, Seller had incurred obligations to Columbia totaling approximately \$57,000, which were secured by all of Seller’s inventory, equipment, accounts, and general intangibles. As of the Petition Date, Seller had incurred additional undisputed obligations totaling approximately \$1,608,173 to its unsecured creditors.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants of the parties set forth herein, IT IS HEREBY AGREED AS FOLLOWS:

A G R E E M E N T

1. Recitals Incorporated. The above recitals are incorporated by reference and are a part of this Agreement.
2. Assets to be Purchased.
 - a. Upon the terms and conditions set forth herein, Seller will sell to Purchaser, and Purchaser will purchase from Seller, all of the Assets. Upon entry of a final order (the “Sale Order”) approving the Sale by the Bankruptcy Court and closing of the Sale (“Closing”), Seller will turn over to Purchaser, and Purchaser will have the exclusive right to take possession of the Assets, subject to Paragraph 4 below.
 - b. As of Closing, Purchaser will bear all risk of loss or damage to the Assets from all causes and will be responsible for any and all *ad valorem* taxes associated with the Assets.
3. Seller’s Liabilities. Purchaser will assume and pay: (a) all of Seller’s pre-petition obligations to its suppliers, vendors, and customers (the “Trade Claims”), (b) prepetition and post-petition warranty obligations regarding Seller’s products sold prior to Closing (the “Warranty Claims”); (c) Seller’s pre-petition federal and state tax obligations estimated to total approximately \$25,000 (the “Tax Claims”); and (d) any allowed administrative expense claims pursuant to 11 USC §503(b) which remain unpaid after Seller’s assets have been liquidated and payments have been made to holders of

allowed administrative expense claims (the “Administrative Claims”). Except for the Trade Claims, the Warranty Claims, the Tax Claims, and the Administrative Claims, Purchaser will not assume any other liabilities of Seller. Purchaser will not assume or agree to pay, perform, or discharge, any other debts, liabilities, obligations, claims, expenses, taxes, or commitments of any kind or character, whether accrued or fixed, absolute or contingent, matured or unmatured, or determined or undetermined (collectively, “Liabilities”) of Seller or become liable to Seller or any other person, for any Liabilities of Seller. Liabilities include, without limitation, any liability of Seller relating to or arising from: (i) any infringement by Seller on the rights of others in connection with the business of Seller; (ii) any and all taxes of any nature with respect to the period prior to Closing; (iii) any liability arising from a violation by Seller of any laws governing employee relations, including anti-discrimination laws, wage and hour laws, labor relations laws, occupational safety and health laws or any other laws applicable to Seller or the business of Seller or the Assets with respect to the period prior to Closing; (v) liability arising from Seller’s fraud, breach, malfeasance, misfeasance, negligence, strict liability in tort, injury to persons or property or under any other theory relating to Seller’s business, the Assets, or the conduct, performance, or non-performance of Seller; (vi) liabilities and obligations arising out of or resulting from the ownership of the Assets before the Closing; (vii) liabilities and obligations arising out of or resulting from any failure by Seller to comply with any applicable law, judgment, or order; (viii) liabilities and obligations arising out of or resulting from any legal proceeding; (ix) liabilities and obligations to any employee of Seller arising out of or resulting from the employee’s service as an employee of Seller through the close of business on the Closing date, whether or not the employee is hired by Purchaser, including, without limitation, all obligations, liabilities, losses, damages, taxes, and/or sanctions arising from or relating to the WARN Act (the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101 *et seq.*) or any similar Washington statute; (x) liabilities and obligations under any employee benefits plan; (xi) liabilities and obligations to any current or former member, manager, or officer of Seller or of any affiliate of Seller; and (xi) liabilities and obligations arising out of or resulting from any act or omission of Seller after the Closing.

4. Removal of Assets/As Is, Where Is. Seller will have no obligation to move or remove the purchased Assets from the Loomis Buildings. The Assets will be sold as is, where is, and Purchaser will bear all of the costs, if any, of removal or relocation of the Assets, including any damages or costs for repairs to the Loomis Buildings, and will indemnify Seller therefor.

5. Purchase Price; Deposit; Free and Clear of Liens, Claims, and Interests. The purchase price payable by Purchaser for the Assets (the “Purchase Price”) will consist of the following: (a) \$100,000, plus the value of the inventory at cost as of the date of Closing, payable in cash or by wire transfer within three (3) business days following entry of the Sale Order; and (b) assumption and payment of the Trade Claims, the Warranty Claims, the Tax Claims, and the Administrative Claims. Upon the execution of this Agreement, Purchaser will provide Seller with a cash deposit of \$25,000 (the “Deposit”) which will be applied to the purchase price at Closing. It is a condition of Closing that the Bankruptcy Court enter the Sale Order providing that the purchase of

the Assets will be free and clear of liens, claims, and interests, including, without limitation, Columbia's Lien.

6. Remedies for Breach by Purchaser. Should Purchaser fail, for any reason other than Seller's breach, to pay the Purchase Price or otherwise proceed with closing of the sale upon entry of the Sale Order, then Purchaser will forfeit the Deposit and the Seller will be entitled to exercise any and all available remedies at law or in equity.

7. Representations and Warranties.

a. The sale and transfer of the Assets to Purchaser is made on an AS-IS, WHERE-IS basis, and Seller makes no representations or warranties regarding the Assets, or the condition thereof.

b. Without limiting the foregoing, Seller makes no express or implied warranties concerning any of the Assets being sold, including any warranty of merchantability or suitability for any particular purpose.

c. Both Seller and Purchaser represent and warrant that, other than the necessary approval of the Bankruptcy Court, each of their respective signatories to this Agreement have the requisite authority to sign and enter into this Agreement on behalf of Seller and Purchaser, respectively.

d. Purchaser represents and warrants that it has the financial ability to pay the Purchase Price as of the date of signing this Agreement.

8. Release and Indemnification.

a. On behalf of itself, its affiliates, successors, members, managers, agents, employees, and representatives, Purchaser releases, indemnifies, and holds Seller harmless for any and all costs, damages, and/or claims of any nature whatsoever incurred by Purchaser, its affiliates, successors, members, managers, agents, employees, and representatives in connection with the Assets and/or the activities involved in taking possession of or using the Assets, including any costs, damages, and/or claims incurred by Purchaser, its successors, members, managers, agents, employees, and representatives, or by such persons' respective heirs, representatives, or successors, for injuries incurred in connection with the Assets, including injuries incurred while in the Loomis' Buildings or on the Loomis' property, including any claims asserted by the Loomises against Purchaser arising from Purchaser's removal of the Assets from the Loomis' Buildings.

b. Seller on behalf of itself and its bankruptcy estate, releases the Purchaser and its members, managers, agents, employees, representatives, heirs, successors, and assigns, from any and all costs, damages, and/or claims of any nature arising prior to the date of this Agreement that Seller or its bankruptcy estate may have against such persons or entities, including, without limitation, any claims under Chapter 5 of the Bankruptcy Code.

c. **IN NO CASE WILL EITHER PARTY HERETO BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES SUCH AS LOST PROFITS, LOSS OF USE, OR INJURY TO ANY OTHER PROPERTY, ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT, INCLUDING CLAIMS ARISING FROM LATENT DEFECTS IN PURCHASED ASSETS.**

9. Applicable Law, Venue, Type of Action. Washington law will govern the interpretation and enforcement of this Agreement. If a dispute arises during the pendency of the Bankruptcy Case, it will be resolved in the Bankruptcy Court. The exclusive jurisdiction and venue for any litigation arising after closure of the Bankruptcy Case relating to this Agreement will be the Clark County Superior Court in Vancouver, Washington, and Seller and Purchaser consent thereto. The prevailing party in any litigation or arbitration will be entitled to recover its reasonable attorney fees, at trial (or hearing), or on appeal.

10. Miscellaneous.

a. Severability. If any provision of this Agreement is determined to be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired.

b. Waiver. The failure of a party at any time to require performance of any provision of this Agreement will not limit such party's right to enforce the provision, nor will any waiver by any party of any breach of any provision be a waiver of any succeeding breach of that provision or a waiver of that provision itself or any other provision. No waiver will be binding unless it is in writing and signed by both parties.

c. Binding Effect. This Agreement will be binding on and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and permitted assigns.

d. Further Assurances. Each party agrees: (i) to execute and deliver such other documents, and (ii) to do and perform such other acts and things, as any other party may reasonably request from time to time, in order to carry out the intent and accomplish the purposes of this Agreement, including, obtaining approval of the sale by entry of a Sale Order by the Bankruptcy Court.

e. Modification. This Agreement may not be amended or modified in any respect whatsoever except by instrument in writing signed by the parties hereto. This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior negotiations, discussions, writings, and agreements between them.

f. Attorney Fees and Costs. In the event of litigation or other proceedings involving the parties to this Agreement to enforce any provision of this Agreement, to enforce any remedy available upon default under this Agreement, or seeking a declaration of the rights of either party under this Agreement, the prevailing party will be

entitled to recover from the other such reasonable attorney fees and costs as may be actually incurred, including its costs and fees on appeal or in any bankruptcy, insolvency, receivership, or other proceeding.

g. Closing. Closing shall not occur until the Sale Order has become a final order. Closing will occur on or about January 13, 2017, which date shall not be later than the last to occur of: (i) five days after the Sale Order has become a final order, and (ii) the full satisfaction or waiver of any other the conditions to Closing set forth herein.

h. Time of the Essence. Time is of the essence of this Agreement and of all of the terms and provisions of this Agreement.

i. Notices. Any notice, request, or other communication to be given by any party hereunder must be in writing and sent by: (a) personal delivery, or (b) reputable overnight delivery service, or (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested. Any such notice will be deemed to have been given either at the time of personal delivery, or, in the case of expedited delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein.

To Seller: North Fork Composites LLC
2617 NE 434th Street
Woodland, WA 98674

With copies to: Sussman Shank LLP
1000 SW Broadway
Suite 1400
Portland, Oregon 97205
Attn: Thomas W. Stilley
E-mail: tstilley@sussmanshank.com

To Purchaser: Composite Ventures LLC
16231 2nd Dr SE
Bothell, WA 98012

With copies to: Horenstein Law Group PLLC
500 Broadway, Suite 120
Vancouver, WA 98660
Attn: Stephen Horenstein
E-mail: steve@horensteinlawgroup.com

j. Execution. This Agreement may be executed in any number of counterparts, each of which will be an original; but such counterparts will together constitute but one and the same instrument. Electronic transmission of any signed original document, and retransmission of any signed electronic transmission, will be the same as delivery of an original. At the request of any party to this Agreement, all other parties hereto will confirm electronic transmitted signatures by signing an original document.

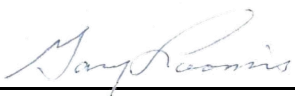
k. Entire Agreement. This Agreement is the entire and final agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, writings, or agreements.

l. Neutral Interpretation. Each of the parties acknowledges and agrees that it has participated in the drafting and negotiation of this Agreement. Accordingly, in the event of a dispute between the parties hereto with respect to the interpretation or enforcement of the terms hereof, no provision will be construed so as to favor or disfavor either party hereto.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date first above written.

SELLER:


NORTH FORK COMPOSITES LLC

By: 

Gary Loomis, Member and Manager

PURCHASER:

COMPOSITE VENTURES LLC

By: 

Aleksandr Maslov, Manager

*23775-002\AMENDED AND RESTATED ASSET PURCHASE AGREEMENT DATED 12/29/16 (02472440);1

EXHIBIT 1
Machinery and Equipment Owned by Gary and Susan Loomis

Industrial Lathe
Ferrule Sander
Industrial Fans (2)
Hydraulic Motor & Arm
Rolling Tables (2)
Seeker Mandrels (1000 Pcs)
Shop Tables (4)
Radial Arm Saw
Air Conditioners (3)
Racks (10)
Ladder
Sofas (2)
Conference Table (1)
Dining Room Table (1) & Chairs (4)
Office Desks (4)
Industrial Drill Press
Cabinets/Shelves (6)
Cleaning cart (Mop & Bucket)
Tools (Hand Drill, Hand Saw, Router)

*23775-002\AMENDED AND RESTATED ASSET PURCHASE AGREEMENT DATED 12/29/16 (02472440);1

SETTLEMENT AGREEMENT

DATE: This Settlement Agreement (the “**Agreement**”) is entered into as of the 29th day of December, 2016.

PARTIES: The parties to this Agreement (the “**Parties**”) are Jon Bial (“**Bial**”) and C6, Inc., a Washington corporation (“**C6**”) (collectively, “**Defendants**”), and North Fork Composites, LLC, a Washington limited liability company (“**NFC**” or the “**Debtor**”).

RECITALS

- A. **The Bankruptcy Case.** On October 7, 2016, NFC, as the debtor, filed a Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the Western District of Washington (the “**Bankruptcy Court**”), Case No. 16-44188-BDL (the “**Bankruptcy Case**”).
- B. **The State Court Case and Adversary Proceeding.**
- a. On December 3, 2014, NFC filed a complaint in the Superior Court of the State of Washington for Clark County, commencing the case captioned *North Fork Composites, LLC v. Jon Bial*, Case No. 14-2-13428-1 (the “**State Court Case**”), asserting claims against Bial for, among other things, breach of employment agreement, breach of fiduciary duty, conversion, and declaratory judgment, which complaint was subsequently amended on April 13, 2015.
 - b. On April 23, 2015, Bial and C6 filed an answer to the amended complaint, asserting counterclaims against NFC for, among other things, wrongful termination, breach of contract, unpaid wages, unjust enrichment, defamation, and blacklisting, and third-party claims against Gary Loomis (“**G. Loomis**”) and Aleksandr Maslov (“**Maslov**”) for unpaid wages, defamation, and blacklisting.
 - c. On October 7, 2016, NFC removed the State Court Case to the Bankruptcy Court, commencing Adversary Proceeding No. 16-04124-BDL (the “**Adversary Proceeding**”).
- C. **The Debtor’s Sale Motion.** Composite Ventures LLC (“**Composite Ventures**”), a Washington limited liability company, has offered to purchase the Debtor’s operating assets in a sale pursuant to 11 USC § 363(f) free and clear of liens, claims, and interests. On December 5, 2016, the Debtor filed its Motion for Orders Approving (A) Marketing Plan and Bid Procedures for Sale of Assets Free and Clear of Liens, Claims, and Interests; (B) Approving Form of Notice of Sale; (C) Scheduling a Hearing to Finally Approve the Sale, and (D) Finally Approving the Sale (the “**Sale Motion**”) seeking authority to sell the assets to Composite Ventures LLC, subject to higher and better bids (the “**Sale**”). In the Sale Motion,

the Debtor requested that the Court approve a marketing plan and bid procedures, and if no higher and better bids are received during the marketing period described in the Sale Motion, finally approve a sale of the assets to Composite Ventures. The proceedings to approve the Sale Motion were continued pending settlement discussions between the Parties to this Agreement.

- D. **Intent of the Parties and Disclaimer of Liability.** The Debtor and Defendants desire to settle all of the claims between them in the State Court Case/Adversary Proceeding and in the Bankruptcy Case, such that the Debtor's claims against Defendants, and Defendants' claims against the Debtor (and any asserted or unasserted claims against Edge Rods LLC ("**Edge**") or Vaporshaft LLC ("**Vaporshaft**")) will be fully and finally resolved. In addition, this settlement is intended to allow the Debtor to proceed with the Sale Motion and a sale of the Debtor's assets to Composite Ventures without further objections by Defendants. Defendants' claims against Maslov and G. Loomis, and Maslov's and G. Loomis' claims against Defendants asserted in the State Court Case/Adversary Proceeding, will remain pending and will not be resolved by this settlement. The Parties also acknowledge that Defendants may or will seek to add additional claims in the State Court Case against Maslov, G. Loomis, and Susan Loomis ("**S. Loomis**"), and these claims will not be affected or resolved by this settlement. The Parties also acknowledge and agree that all claims between Debtor and Defendants are disputed as to both liability and amount and that Debtor and Defendants are entering into this settlement in order to avoid the expense, burden, and delay of litigation, and without admitting or acknowledging any liability on the part of either Debtor or Defendants.

AGREEMENT

NOW THEREFORE, in consideration of their entry into this Agreement and their performance of the covenants and conditions set forth below, the Parties agree as follows:

1. **Recitals.** The Recitals above are incorporated into this Agreement.
2. **Bankruptcy Court Approval.** Upon the Parties' execution of this Agreement, the Debtor will file a motion with the Bankruptcy Court for approval of this Agreement.
3. **Consideration.** Upon execution of this Agreement, Debtor will (a) deposit with its counsel Sussman Shank LLP, the sum of \$15,000 (the "**Settlement Amount**") to be held in trust for purposes of performing the conditions of this Agreement; and (b) permit remote access to what was Bial's office computer to a third party specialist of Bial's choosing for the purposes of locating and retrieving the aperture photo file containing the photos taken by Bial. If the file cannot be retrieved remotely, the parties will work together in good faith to allow Bial's specialist physical access to the computer to attempt to retrieve the file. Defendants will pay all costs associated with any third-party specialist, including any travel costs incurred by such specialist. Upon the Bankruptcy Court's entry of an order

approving this Agreement (the “**Approval Order**”), Debtor's counsel will remit the Settlement Amount to Defendants’ counsel, Leonard Law Group LLP.

4. **Debtor’s Sale of Assets; Dismissal of Bankruptcy Case.** Defendants will not object to the Sale Motion, any amendment thereto, or any subsequent motion filed by Debtor in the Bankruptcy Case seeking authority to sell all or any portion of its assets, nor take action to challenge the consideration, the scope of the assets to be sold, the propriety of the bankruptcy filing, or any alleged preferential or fraudulent transfers made by Debtor to Debtor’s members, managers, officers, or employees. Defendants will withdraw their request for any further due diligence materials regarding the sale of the assets in addition to those already received. Defendants will also take no action to challenge or object to Debtor’s request to dismiss the Bankruptcy Case.

5. **Dismissal of Debtor from State Court Case/Adversary Proceeding and Remand to State Court.** Upon the Bankruptcy Court’s entry of the Approval Order, (i) the Releases provided in Section 7 will become immediately effective; and (ii) the Parties will stipulate to entry of an order dismissing all claims and counterclaims between the Debtor and Defendants in the State Court Case/Adversary Proceeding with prejudice and without costs or attorney’s fees to Debtor or Defendants. Such dismissal will not affect any of the third-party claims asserted by Defendants against Maslov and G. Loomis, or any other claims either or both Defendants have asserted or seek to assert against Maslov, G. Loomis, or S. Loomis, or any claims Maslov and/or the Loomises may have asserted or seek to assert against either or both Defendants. In addition, upon entry of the Approval Order the Parties will stipulate to an order or orders remanding the State Court Case/Adversary Proceeding to the state court from which it was removed and, to the extent necessary, granting relief from the automatic stay. The Parties will submit the proposed orders for dismissal, remand, and relief from stay referenced in this paragraph to the Bankruptcy Court immediately upon entry of the Approval Order.

6. **Enforcement of Judgment Against Maslov and the Loomises.** If and when Defendants, or either of them, obtain a judgment against Maslov, G. Loomis, and/or S. Loomis, each such judgment debtor will provide Defendants with a list of such judgment debtor's non-exempt assets within 30 days after the entry of such judgment. Defendants will not seek to satisfy such judgment out of, or by execution on, Maslov’s or the Loomises’ membership or other equity interests in NFC or Composite Ventures, until such time as Defendants have first attempted to satisfy such judgment out of the disclosed non-exempt assets of Maslov, G. Loomis, and/or S. Loomis, and such judgment or any portion thereof remains unsatisfied. Defendants acknowledge and agree that, provided Maslov and the Loomises are themselves in compliance with the provisions of this Paragraph, such parties will be entitled to request immediate injunctive or similar relief should Defendants violate this provision, in addition to other remedies, and that this Agreement may be filed with the Court that issued the judgment.

7. **Releases.** Except for the Parties' obligations arising out of this Agreement, upon entry of the Approval Order, the Debtor and Defendants, and each of them, shall hereby release and discharge each other from all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties, fees, wages, medical costs, pain and suffering, mental anguish, emotional distress, expenses (including attorneys' fees and costs actually incurred), and punitive damages, of any nature whatsoever, known or unknown, which either Debtor or Defendants have or may have had, against each other, whether or not apparent or yet to be discovered, or which may hereafter develop, for any acts or omissions occurring prior to the date of this Agreement. For the sake of clarity, this release will serve to release any asserted or unasserted claims by Defendants against Edge and Vaporshaft in addition to Defendants' claims against Debtor, but will not serve to release any pending or potential claims between Defendants, on the one hand, and Maslov, G. Loomis, and S. Loomis, on the other hand, or any defenses to such claims, including without limitation those claims asserted in Defendants' Proposed Amended Third Party Complaint filed in the State Court Case on October 6, 2016; however, Maslov, G. Loomis, and S. Loomis reserve and retain all of their rights to oppose the addition of any such claims to the State Court Case or to have such claims dismissed.

8. **Time is of the Essence.** Debtor will file a motion seeking approval of this Agreement on or before December 30, 2016, and will request that the Court conduct a hearing on the motion concurrently with the Court's hearing on the Debtor's Sale Motion and that such hearing be held on January 11, 2017.

9. **Acknowledgment of Settlement.** The Parties acknowledge that (a) the consideration set forth in this Agreement, which includes, but is not limited to, the payment in Section 3, is in full settlement of all claims or losses of whatsoever kind or character that Debtor and Defendants have, or may ever have had, against each other, and (b) by signing this Agreement, and accepting the consideration provided herein and the benefits of it, they are giving up forever any right to seek further monetary or other relief from each other for any acts or omissions up to and including the date this Agreement is executed.

10. **Integration.** This Agreement represents the final written expression and the complete and exclusive statement of all of the promises, representations, and covenants made between the Parties with respect to the subject matter of this Agreement, and supersedes all prior or contemporaneous agreements, representations, and discussions between the Parties and their representatives with respect to the subject thereof. The recitals set forth at the beginning of this Agreement are incorporated by reference and made a part of this Agreement.

11. **Severability.** If any provision of this Agreement is found to be unlawful, void, or for any reason unenforceable, such provision shall be deemed severable from, and shall in no way affect the validity or enforceability of, the remaining provisions of this Agreement.

12. **Choice of Law and Forum Selection.** This Agreement shall be interpreted, applied, and enforced in accordance with the laws of the state of Washington. Any action to enforce or interpret any of the provisions of this Agreement shall be brought exclusively and only in the Bankruptcy Court and the Parties agree to submit to the jurisdiction of that court and waive any objections thereto, including any objection as to such venue; provided, however, that any actions taken by any party to enforce the provisions of Paragraph 6 of this Agreement will not be brought in the Bankruptcy Court but instead must be brought in the court issuing the applicable judgment against Maslov, G. Loomis, and/or S. Loomis.

13. **Attorney Fees.** In the event that any Party brings any action to enforce or interpret any of the provisions of this Agreement, then the court shall award reasonable costs and attorney fees to the prevailing party, including such costs and attorney fees incurred on all appeals and in bankruptcy court, including issues peculiar to bankruptcy law.

14. **Modification of Agreement.** This Agreement may not be modified except by a writing signed by all of the Parties to this Agreement.

15. **Binding Effect.** The covenants, agreements, conditions, and terms contained in this Agreement shall be binding upon, and shall inure to the benefit of, the successors, assigns, executors, administrators, heirs and estates of the Parties.

16. **Declaration of the Parties.** Debtor and Defendants hereby acknowledge and declare that the terms of this Agreement have been read by them and are fully understood and voluntarily accepted for the purpose of making a final and complete compromise and settlement of any and all claims arising from, related to, or in any way connected with, in whole or in part, the subject matter hereof. Further, in entering into this Agreement, all Parties acknowledge that they have relied upon the legal advice of their respective attorneys, who are the attorneys of their own choosing. Other than the consideration set forth herein, no promises or representations of any kind have been made to them by any other Party. The Parties represent and acknowledge that in executing this Agreement they did not rely, and have not relied, upon any representation or statement, whether oral or written, made by any other Party or by such other Party's agents, representatives or attorneys with regard to the subject matter, basis or effect of this Agreement or otherwise.

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17. **Execution in Counterparts.** The Parties agree that this Agreement may be executed in counterparts and a facsimile signature shall be binding as if it were an original. This Agreement shall be considered fully executed when the signatures of all Parties have been obtained, either in one document or in a compilation of multiple counterparts from each party.

PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES A RELEASE OF CLAIMS.

NORTH FORK COMPOSITES LLC

Date: 12/29/2016

By: 
Gary Loomis, Member and Manager

Date: _____

Jon Bial

C6, Inc.

Date: _____

By: _____
Jon Bial, President

17. **Execution in Counterparts.** The Parties agree that this Agreement may be executed in counterparts and a facsimile signature shall be binding as if it were an original. This Agreement shall be considered fully executed when the signatures of all Parties have been obtained, either in one document or in a compilation of multiple counterparts from each party.


PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES A RELEASE OF CLAIMS.

NORTH FORK COMPOSITES LLC

Date: _____

By: _____
Gary Loomis, Member and Manager

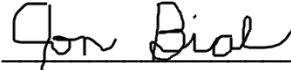
Date: December 29, 2016



Jon Bial

C6, Inc.

Date: December 29, 2016

By: 

Jon Bial, President