

## AGREEMENT

This Agreement of Release and Settlement (the “**Agreement**”) is made and entered into by Upper Valley Commercial Corporation, the debtor-in-possession (the “**Debtor**”), Woodsville Guaranty Savings Bank (“**Woodsville**”) and Parke J. Patten, Inc. (“**Patten’s Gas**”) (collectively, the “**Parties**”), as of the date set forth below.

### Background

The Debtor filed for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §101 *et seq* (the “**Code**”) on December 31, 2013 thereby commencing the bankruptcy case entitled Upper Valley Commercial Corporation, Docket No. 13-13110-JMD (the “**Case**”) pending in the United States Bankruptcy Court for the District of New Hampshire.

The Debtor was formed on December 22, 1964 for the purpose of conducting a finance business to encourage and support various businesses in the Upper Connecticut Valley of New Hampshire. The Debtor has engaged primarily in buying, selling, transferring, assigning, discounting, and borrowing money upon and pledging as collateral various types of financial assets, including but not limited to bills of lading, warehouse receipts, trust receipts, conditional sales contracts, chattel mortgages, evidences of deposit or storage of personal property, pledges of personal property, mortgages on real property, accounts receivable, commercial paper accounts, choses in action, promissory notes and other evidences of indebtedness of persons, firms or corporations.

The primary business of the Debtor has been to lend to retail and wholesale propane companies, including Patten’s Gas, but it also lends to other commercial businesses and individuals. To finance its lending, the Debtor borrows from businesses and individuals by issuing uncertificated demand promissory notes and certificated term promissory notes.

The Debtor routinely lends operating funds to Patten's Gas, a wholesale and retail gas supplier (the "**PG Loan**"). Patten's Gas is an affiliated non-debtor entity owned by Alvin Fadden and David Patten. The financing by the Debtor helps Patten's Gas manage its liquidity during the first quarter of the year; the funds are typically used to purchase propane, which is in turn sold to its customers. As of December 31, 2013, Patten's Gas owed approximately \$1,771,000 on the PG Loan.

The Debtor has one creditor, Woodsville, holding a security interest in Debtor's cash collateral and virtually the entire Debtor's other assets. As of December 31, 2013, the Debtor owed approximately \$1,147,000 on a revolving line of credit with Woodsville ("**Secured Loan**").

On January 10, 2014, Woodsville extended a \$500,000 short term secured bridge loan to Patten's Gas to enable it to continue operating, which is secured by all of Patten's Gas business assets (the "**Bridge Loan**").

It is the Parties' desire and in their best interest to compromise, settle, buy peace from, and terminate any and all disputes, claims, controversies, demands, actions, causes of action, between them arising from or in any way related to the Secured Loan and PG Loan. The Parties have mutually agreed to do so on the following terms:

#### Settlement

The Parties acknowledge and agree to the following outstanding financial obligations:<sup>1</sup>

- A. The Debtor is currently indebted to Woodsville in the amount of \$1,147,000, which is secured by an all asset lien in virtually all of the Debtor's assets.

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<sup>1</sup> The amounts stated herein are approximate amounts and the Parties acknowledged that interest, costs, etc. will slightly alter these amounts.

B. Patten's Gas is currently indebted to the Debtor in the amount of \$1,771,000, which is unsecured.

C. Patten's Gas is also currently indebted to Woodsville in the amount of \$500,000, which is secured by all of Patten's Gas business assets.

As a result of good faith negotiations and to avoid the expense, inconvenience and further delay the Debtor, Woodsville and Patten's Gas have reached terms to release all claims against each other:

1. Patten's Gas will assumed the Secured Loan and corresponding \$1,147,000 liability between the Debtor and Woodsville;
2. Patten's Gas will stipulate that it owes the Debtor \$1,771,000 in prepetition debt;
3. Patten's Gas will offset the assumed Secured Loan liability of \$1,147,000 from its stipulated to prepetition debt of \$1,771,000 and make an immediate payment of \$624,000 to the Debtor;
4. Woodsville will modify the Secured Loan assumed by Patten's Gas, in part, to increase the current credit availability of \$2,000,000 and to provide a new credit cap of \$3,000,000 – such modification and extension is governed by the Commitment Letter extended by Woodsville to Patten's Gas dated January 15, 2014 ;
5. The new credit will be used to pay off the current Bridge Loan between Patten's Gas and Woodsville;
6. The new credit will be used to make the \$624,000 payment to the Debtor;
7. The new credit will be used to provide Patten's Gas with \$729,000 in revolving credit;
8. Woodsville will release all its liens against the Debtor's property; and

9. The Debtor will provide complete general releases to both Woodsville and Patten's Gas of any and all liability.

General Mutual Release by the Parties

In exchange for the Settlement outlined above and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby, for themselves and their successors, heirs, and assigns, release each other, and the other party's respective employees, members, agents, directors, officers, shareholders, managers, affiliates, heirs, executors, successors, and assigns, from any and all actions, causes of action, debts, dues, claims and demands of every name and nature, both at law and in equity, which the Parties have, or which they may have had against each other, relating to any matter or claim arising from or in any way relating to the Secured Loan, PG Loan, Bridge Loan or the Estate or which could have been asserted in or raised in the Case including without limitation all claims under the Code (including chapter 5 claims).

Releases Include Unknown Claims.

The Parties understand and agree that the released claims are intended to and do include any and all claims of every nature and kind whatsoever, known, unknown, suspected or unsuspected which any of the parties has or may have against each other. The Parties also further acknowledge that they may hereafter discover facts different from or in addition to those which they now know or believe to be true with respect to the released claims and agree that, in such event, this Agreement shall nevertheless be and remain in effect in all respects, notwithstanding such different or additional facts, or the discovery thereof.

No Admission of Liability.

This Agreement constitutes the settlement and release of disputed claims and does not constitute an admission of liability on the part of any party as to any matters whatsoever. It is

understood and agreed that this settlement is the compromise of doubtful and disputed claims and that the parties merely intend to avoid litigation and buy their peace.

Modification.

No provisions of this Agreement may be changed, altered, modified, or waived except in writing signed by all of the Parties.

Entire Agreement.

The Parties each further acknowledge that no representation, promise or inducement has been made other than as set forth in this Agreement, and that none of them enters into this Agreement in reliance upon any other representation, promise or inducement not set forth herein. The Parties further acknowledge and represent that they assume the risk for any mistake or facts now known or unknown.

Understanding.

The Parties acknowledge and represent that they have read this Agreement in full and understand and voluntarily consent and agree to each and every provision contained herein.

Attorneys' Fees and Costs.

The Parties shall bear their respective costs and attorney fees incurred in this matter.

Controlling Law; Venue.

The Parties agree that New Hampshire law shall govern the validity and interpretation of this Agreement. The Parties stipulate that jurisdiction and/or venue shall lie exclusively in the State of New Hampshire, Merrimack County Superior Court, for any action involving the validity, interpretation, or enforcement of this Agreement, or for any claim for breach of this Agreement, or for any other relief under this Agreement.

Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

THE UNDERSIGNED ACKNOWLEDGE THAT THEY HAVE CAREFULLY READ AND UNDERSTOOD THE CONTENTS OF THIS SETTLEMENT AGREEMENT, HAVE READ AND CONSULTED WITH COUNSEL OF THEIR OWN CHOICE OR HAD OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE, CONCERNING THE PROVISIONS OF THIS SETTLEMENT AGREEMENT AND THE EFFECT OF THE RELEASES CONTAINED HEREIN, AND HAVE CAUSED THIS SETTLEMENT AGREEMENT TO BE SIGNED AS THEIR OWN FREE ACTS AND DEEDS UPON THE DATE SET FORTH NEXT TO THEIR SIGNATURES, OR THE SIGNATURE OF ANY OF THEIR DULY AUTHORIZED REPRESENTATIVES.

IN WITNESS WHEREOF, having read carefully the foregoing Agreement and knowing and understanding its content, the Parties have duly authorized and caused this Agreement to be executed as follows:

**SEEN AND AGREED**

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