

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

In re:

Florida Extruders International, Inc.

Case No.: 8:11-bk-07761-KRM
Chapter 11

Debtor.

ORDER CONFIRMING DEBTOR'S PLAN OF LIQUIDATION

THIS CASE came on for hearing on June 30, 2011 (the "**Hearing**") to consider confirmation of the Debtor's Plan of Liquidation dated June 2, 2011 (Doc. No. 91) and the Limited Objection to Confirmation of Plan of Liquidation filed by the United States Trustee (Doc. No. 115). For purposes hereof, all capitalized terms used and not otherwise separately defined herein, shall have the meanings ascribed to such terms in the Plan.

At the Hearing, counsel for the Debtor made the following *ore tenus* amendments (the "**Amendments**") to the Debtor's Plan of Liquidation (Doc. No. 91)(which collectively shall constitute and be referred to hereinafter as the "**Plan**"):

- A. Section 10.01 of the Plan shall be stricken in its entirety.
- B. Section 11.01 shall be modified and limited as follows:
 - (i) The release shall be limited to those individuals and entities who received notice of the confirmation and disclosure statement hearing in this Case; and
 - (ii) The release shall specifically exclude claims arising from the willful misconduct or gross negligence of any party.
- C. That portion of Article II of the Plan defining the Class 4 Secured Claim shall be amended and restated as follows:

“The claim of Hunter Douglas Metals, Inc. The claim is secured by a valid, perfected, and enforceable lien that is prior in dignity to all security interests other than the Class 2 Secured Claims on the real property located at 2305 Beardall Ave., Seminole County, FL (the “**2305 Beardall Property**”).”

D. The treatment of the Class 4 Secured Claim provided in Article IV of the Plan shall be amended and restated as follows:

- (i) As soon as practicable after the Effective Date, Debtor shall convey to Hunter Douglas Metals, Inc. or its designee (“Hunter Douglas”) its interest to the 2305 Beardall Property free and clear of all liens, claims, and encumbrances, but subject to the Class 2 Secured Claims and Liens. To the greatest extent possible, this conveyance shall be worded as requested by Hunter Douglas to give the greatest protection to its title interest. The conveyance shall not be subject to transfer taxes as provided by Section 1146(a) of the Bankruptcy Code. Following confirmation, title to the 2305 Beardall Property shall reside in the Debtor, and the Distribution Agent shall have full authority to make the conveyances to Hunter Douglas contemplated by the Plan.
- (ii) As soon as practicable after the Effective Date, Debtor shall transfer to Hunter Douglas, to the extent not transferred under the previous paragraph, all interest of the Debtor in any condemnation, eminent domain, or similar proceedings concerning all or part of the 2305 Beardall Property, or proceeds from such proceedings. If, before the transfer, any decisions regarding the condemnation proceedings must be made by the Debtor, Debtor shall consult

with Hunter Douglas, and shall act as directed by Hunter Douglas, at Hunter Douglas' expense.

- (iii) Within five business days of the conveyances described in subparagraphs (i) and (ii) above, Hunter Douglas shall pay to the Debtor or its designee the sum of thirty thousand dollars (\$30,000), which payment, coupled with the provisions above, shall effect a mutual release of all claims between Hunter Douglas and the Debtor, its estate, and its post-confirmation successor. This release will include, but not be limited to, any preference claims the Debtor may have against Hunter Douglas, any claim that the Debtor may have against Hunter Douglas for amounts due and owing to Debtor, and any claims which Hunter Douglas may have against the Debtor, whether secured or unsecured.

At the Hearing, counsel for the Debtor also proffered the direct testimony of Soneet R. Kapila, the Chief Restructuring Officer of the Debtor, in support of confirmation of the Plan as set forth in his affidavit (Doc. No. 129), and as further set forth in the *ore tenus* proffers made by counsel in open court. The Court has taken judicial notice of the docket of this case and the papers described therein. Based upon that, the ballots filed accepting the Plan (including late filed ballots and acceptances of the Plan made on the record at the Hearing based upon the Amendments made at the Hearing, which ballots are deemed timely filed and which ballots satisfy the conditions for entry of this Order established by the Court at the Hearing), and the evaluation of other evidence presented and arguments of counsel at the Hearing, the Court makes the following findings of fact and conclusions of laws:

A. **Jurisdiction and Venue.** This Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan is a core proceeding under 28 U.S.C. § 157(b)(2), and this Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules and should be confirmed.

B. **Transmittal and Service of Notices.** Notice of the Hearing and the relevant deadlines for submission of objections, as prescribed by this Court in its Order Conditionally Approving Disclosure Statement, Fixing Time to File Objections to the Disclosure Statement, Fixing Time to File Applications for Administrative Expenses, Setting Hearing on Confirmation of the Plan, and Setting Deadlines with Respect to Confirmation Hearing (Doc. No. 93) (the “**Disclosure Statement Order**”) has been provided and is adequate and sufficient pursuant to Section 1128 of the Bankruptcy Code and Rules 2002(b) and 3020 of the Bankruptcy Rules. Additionally, the Disclosure Statement and the Plan, which were transmitted and served as set forth in the Notice of Filing Affidavit of Mailing Solicitation Package dated June 6, 2011 (Doc. No. 97), are hereby deemed to have been transmitted and served in compliance with the Disclosure Statement Order and the Bankruptcy Rules. Such transmittal and service are adequate and sufficient, and no other or further notice of the Hearing, the Disclosure Statement or the Plan shall be required.

C. **Disclosure Statement Approval.** The objections to the Disclosure Statement were withdrawn in open court, therefore, the Court’s conditional approval of the Disclosure Statement pursuant to the Disclosure Statement Order became final.

D. **Solicitation.** The solicitation of votes on the Plan was conducted in good faith and in compliance with Sections 1125 and 1126 of the Bankruptcy Code, Rules 3017 and 3018 of the

Bankruptcy Rules, the Disclosure Statement Order, and all other applicable provisions of the Bankruptcy Rules, laws or regulations.

E. **Ballots and Tabulations.** All procedures used to distribute solicitation materials to the applicable Holders of Claims and to tabulate ballots were fairly and properly conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code, and the Bankruptcy Rules. On June 29, 2011, the Debtor filed the Ballot Tabulation (Doc. No. 131) in accordance with Local Rule 3018-1(a), which was amended by statements made at the Hearing.

F. **Burden of Proof.** The Debtor has met its burden of proving the elements of Sections 1129(a) and (b) of the Bankruptcy Code, by a preponderance of the evidence, which is the applicable evidentiary standard.

G. **Compliance with Section 1129(a)(1) of the Bankruptcy Code.** The Plan complies with the applicable provisions of the Bankruptcy Code, thereby satisfying Section 1129(a) (1) of the Bankruptcy Code.

i. **Proper Classifications.** The classification of Claims and Interests under the Plan is reasonable. Valid business, factual and legal reasons reasonably exist for the classification under the Plan. Claims or Interests in each Class are substantially similar to other Claims or Interests in such Class, and the Plan therefore satisfies the requirements of Section 1122(a) of the Bankruptcy Code.

ii. **Designation of Classes.** The Plan properly designates the Classes of Claims and Interests in accordance with the applicable provisions of the Bankruptcy Code, including Sections 1122 and 1123(a) (1) of the Bankruptcy Code.

iii. **Specified Unimpaired Classes.** The Plan specifies that Class 1 and Class 2 are unimpaired under the Plan, thereby satisfying the requirements of Section 1123(a)(2) of the

Bankruptcy Code. Pursuant to Section 1126(f) of the Bankruptcy Code, Class 1 and Class 2 are deemed to accept the Plan.

iv. **Specified Impaired Classes.** The Plan specifies that Classes 3, 4, 5, 6 and 7 are impaired under the Plan, thereby satisfying the requirements of Section 1123(a) (3) of the Bankruptcy Code.

v. **No Discrimination.** The Plan provides for the same treatment of each Claim or Interest of a particular Class, thereby satisfying the requirements of Section 1123(a) (4) of the Bankruptcy Code.

vi. **Implementation of Plan.** The Plan provides for adequate means for its implementation satisfying the requirements of Section 1123(a)(5) of the Bankruptcy Code, including, but not limited to (a) the satisfaction of Claims through the distribution of the proceeds of the sale of the Debtor's assets; (b) appointing and authorizing the Distribution Agent liquidate and dissolve the Debtor; and (c) authorizing the execution, delivery, filing, or recording of all contracts, instruments, releases, and other agreements or documents related to the foregoing.

vii. **Additional Plan Provisions.** The Plan does not contain any provision that is inconsistent with the provisions of the Bankruptcy Code and, therefore, satisfies Section 1123(b) (6) of the Bankruptcy Code.

viii. **Identity of Proponents.** In accordance with Rule 3016(a) of the Bankruptcy Rules, the Plan identifies the Debtor as the entity submitting the Plan.

H. **Debtor's Compliance.** The Debtor has complied with each of the applicable provisions of the Bankruptcy Code including, without limitation, Sections 1125 and 1126 of the Bankruptcy Code and, therefore, have satisfied the requirements of Section 1129(a) (2) of the Bankruptcy Code, as follows:

i. The Debtor has the right to submit the Plan under Section 1121(a) of the Bankruptcy Code;

ii. The Debtor has complied with each of the applicable provisions of the Bankruptcy Code, as otherwise provided or permitted by orders of the Court; and

iii. The Debtor has complied with each of the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and the Disclosure Statement Order in transmitting notices and disclosure and solicitation materials with respect to the Plan.

I. **Proposed in Good Faith.** The Plan has been proposed in good faith and not by any means forbidden by law, thereby satisfying the requirements of Section 1129(a) (3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the filing and prosecution of the Bankruptcy Case and the formulation of the Plan. The Bankruptcy Case was filed, and the Plan was proposed, for proper purposes, including (i) maximizing the value of the Debtor's Estate and (ii) fairly distributing the value of the Debtor's Estate among its Creditors.

J. **Payments for Services or Costs and Expenses.** To the extent required by the Bankruptcy Code, the Bankruptcy Rules, or orders of this Court, any payments made by the Debtor for services or for costs and expenses in, or in connection with, the Bankruptcy Case or the Plan, have been approved by, or are subject to the approval of this Court as reasonable. Accordingly, the Plan satisfies the requirements of Section 1129(a) (4) of the Bankruptcy Code.

K. **Directors, Officers, and Insiders.** The Debtor adequately disclosed or otherwise identified Soneet R. Kapila as the CRO and Distribution Agent responsible for administering the liquidation of the Debtor's assets and affairs following confirmation of the Plan. Accordingly, the Plan complies with the requirements of Section 1129(a) (5) of the Bankruptcy Code.

L. **No Rate Changes.** Section 1129(a) (6) of the Bankruptcy Code is satisfied as the Plan does not provide for any change in rates over which a governmental regulatory commission has jurisdiction.

M. **Best Interests of Creditors.** The Plan satisfies Section 1129(a) (7) of the Bankruptcy Code. With respect to each Impaired Class of Claims, each Holder of a Claim against the Debtor:

(i) has accepted the Plan; or (ii) will receive or retain under the Plan, on account of such Claim, property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor was to be liquidated under Chapter 7 of the Bankruptcy Code on such date. The liquidation analysis provided in the Disclosure Statement and other evidence proffered, adduced, or presented at the Hearing are persuasive and credible and have not been controverted by other evidence.

N. **Acceptance by Certain Classes.** Class 1 and Class 2 are unimpaired and are deemed to accept the Plan under Section 1126(f) of the Bankruptcy Code. Classes 3-7 are impaired and designated as voting Classes under the Plan. Classes 3, 4, 6 and 7 have voted to accept the Plan. Class 5 consists of the Secured Claim of First Insurance Funding Corp. Class 5 has not voted to accept or reject the Plan. The Plan nevertheless is confirmable because it satisfies Section 1129(b) of the Bankruptcy Code with respect to Class 5 Secured Claims as set forth in Paragraph T below.

O. **Treatment of Administrative and Priority Claims.** The treatment of Allowed Administrative Claims, Allowed Priority Tax Claims and Allowed Other Priority Claims under Articles 3 and 4 of the Plan satisfies the applicable requirements of Section 1129(a)(9) of the Bankruptcy Code.

P. **Acceptance by Impaired Classes.** Classes 3, 4, 6 and 7 are impaired classes of Claims or Interests that have voted to accept the Plan. Classes 3, 4 and 6 have voted to accept the Plan determined without including any acceptance by any “insiders” and, thus, satisfy Section 1129(a) (10) of the Bankruptcy Code.

Q. **Feasibility.** The Disclosure Statement and the evidence proffered, adduced, or presented at the Hearing (i) are persuasive and credible, (ii) have not been controverted by other evidence, and (iii) establish that confirmation of the Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor, thus satisfying the requirements of Section 1129(a) (11) of the Bankruptcy Code.

R. **Payment of Fees.** The fees due and payable by the Debtor to the United States Trustee or the Clerk of this Court, as provided under 28 U.S.C. § 1930(a)(6), have been paid or will be paid by the Post-Confirmation Debtor (as defined in Paragraph 19 below) pursuant to the Plan. Thus, the requirements of Section 1129(a) (12) of the Bankruptcy Code are satisfied.

S. **Continuation of Retiree Benefits.** There are no unsecured claims for “retiree benefits” as defined in Section 1114(a). Accordingly, the requirements of Section 1129(a) (13) of the Bankruptcy Code are satisfied.

T. **Fair and Equitable; Confirmation of Plan Over Nonacceptance Of Classes.** Based upon the evidence proffered, adduced, or presented by the Debtor at the Hearing, the Plan does not discriminate unfairly and is fair and equitable with respect to the Class 5 Secured Claim as required by Section 1129(b) of the Bankruptcy Code. The Plan may be confirmed under Section 1129(b) of the Bankruptcy Code even if the Plan fails to satisfy Section 1129(a)(8) of the Bankruptcy Code with respect to Class 5 Secured Claim because the liquidation analysis of the Debtor’s assets establishes that there is no value in the Class 5 Secured Claim’s collateral to warrant

a distribution to Class 5 and Class 5 will receive the indubitable equivalent of its Claim pursuant to the Plan. As such, the requirements of Section 1129(b) (2) of the Bankruptcy Code are satisfied.

U. **Principal Purpose.** No party in interest that is a governmental unit has requested that the Court not confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933, 15 U.S.C. § 77e, and the principal purpose of the Plan is not such avoidance. Accordingly, the Plan satisfies the requirements of Section 1129(d) of the Bankruptcy Code.

V. **Good Faith Participation.** Based upon the record before the Court, the Debtor, and its respective members, officers, directors, partners, employees, agents, counsel and financial advisors have acted in good faith within the meaning of Section 1125(e) of the Bankruptcy Code and in compliance with the provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all their respective activities relating to the Plan, including, without limitation, with respect to the solicitation of acceptances or rejections of the Plan and the offer, issuance, sale or purchase of any securities in connection with the Plan, and are entitled to the protections afforded by Section 1125(e) of the Bankruptcy Code.

W. **Retention of Jurisdiction.** The Court may properly retain jurisdiction over the matters set forth in Article 9 of the Plan.

X. **Assumption, Assignment and Rejection of Contracts.** The Debtor's Plan of Liquidation provides that the Debtor rejects all executor contracts and unexpired leases. The rejection of all executory contracts and unexpired leases set forth in the Plan is in the best interests of the Debtor's Estate and its creditors.

Y. **Preservation of Causes of Action.** It is in the best interests of the creditors and interest holders that the causes of action that are not expressly released under the Plan be retained by

the Post-Confirmation Debtor or the Distribution Agent in order to maximize the value of the Debtor's Estate.

Z. **Amendments to Plan.** Each of the Amendments proposed by the Debtor is an essential element of the Plan, and none of the Amendments adversely changes the treatment of the Claim of any creditor or Interest of any equity holder.

AA. **Objection to Confirmation.** All objections to confirmation of the Plan were either withdrawn at the hearing or are overruled as moot based on the *Amendments* or the proffers made by counsel for the Debtor at the Hearing.

Accordingly, it is **ORDERED** that:

1. **Confirmation.** The Plan is confirmed under Section 1129 of the Bankruptcy Code. The terms of the Plan and the exhibits thereto are incorporated by reference into, and are an integral part of, the Plan and this Confirmation Order.

2. **Compliance with Applicable Provisions of Bankruptcy Code.** The Plan complies with the requirements of Sections 1122, 1123 and 1129 of the Bankruptcy Code.

3. **Amendments.** Each of the Amendments shall be deemed to be accepted by the creditors and equity security holders who have or have previously accepted the Plan.

4. **Objections.** To the extent that any objections have not been withdrawn or resolved by stipulation prior to the entry of this Confirmation Order or are not resolved by the relief granted herein or as stated on the record of the Hearing, all such objections are hereby overruled.

5. **Plan Classification Controlling.** The classification of Claims and Interests for purposes of the distributions to be made under the Plan shall be governed solely by the terms of the Plan. The classifications set forth on the ballots tendered to or returned by the Debtor's creditors in connection with voting on the Plan (a) were set forth on the ballots solely for purposes of voting to

accept or reject the Plan, (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims or Interests under the Plan for distribution purposes, (c) may not be relied upon by a holder of any Claim or Interest as representing the actual classification of such Claim or Interest under the Plan for distribution purposes, and (d) shall not be binding upon the Debtor or the Estate.

6. **Certain Effects of Confirmation; Discharge; Injunction.** All of the provisions of Articles 9, 10, and 11 of the Plan, subject to the limitations set forth therein, are incorporated herein by reference as if set forth herein and are hereby approved in their entirety. For the purpose of certainty, neither the Plan nor this Confirmation Order affect, impair, limit, compromise settle or in any way impact or change any claim or right held by the Debtor's creditors against any third party.

7. **Cancellation of Existing Interests and Agreements.** Except for purposes of evidencing a right to receive a distribution under the Plan or as otherwise provided thereunder, and except as provided in the Plan or this Confirmation Order, on the Effective Date all the agreements and other documents evidencing (a) any Claims or rights of any Holder of a Claim or Interest against the Debtor, including all indentures and notes evidencing such Claims; (b) any security interests, liens or encumbrances against property of the Debtor, with respect to such Claims; and (c) all certificates evidencing Interests, shall be deemed released, extinguished, cancelled, and of no further force and effect without the need for further action on the part of the Debtor or the Post-Confirmation Debtor.

8. **Assumptions, Assignments and Rejections.** The rejection of all executory contracts and unexpired leases provided in Article 6 of the Plan is approved in its entirety.

9. **Bar Date for Rejection Damage Claims.** Claims arising out of the rejection of an executory contract or unexpired lease pursuant to Article 6 of the Plan must be filed with the Court no later than the earlier of (a) thirty (30) calendar days from the Confirmation Date, or (b) thirty (30)

calendar days from entry of the order rejecting such contract or lease. Any Claims not filed within such time period will be forever barred from assertion against any of the Debtor or the Post-Confirmation Debtor.

10. **Release of Liens.** Except as otherwise provided in the Plan or this Confirmation Order, or in any contract, instrument, release, or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and/or concurrently with the applicable distributions made pursuant to the Plan, all mortgages, deeds of trust, liens, or other security interests against the property of the Estate are fully released and discharged (except to the extent reinstated under the Plan), and all right, title, and interest of any holder of such mortgages, deeds of trust, liens, or other security interests, including any rights to any collateral thereunder, shall revert to the Post-Confirmation Debtor and its successors and assigns.

11. **Distributions to Creditors.** Pursuant to the terms of the Plan, the Distribution Agent shall implement the distributions as provided for under the Plan.

12. **Retained Professional Claims and Final Fee Applications.** All final requests for payment by all professionals retained by an Order of this Court under Section 327 of the Bankruptcy Code that are seeking an award by the Court of compensation for services rendered or reimbursement of expenses incurred through and including the date of the Hearing under Sections 503(b)(2), 503(b)(3) or 503(b)(5) of the Bankruptcy Code shall be filed and served on counsel for the Post-Confirmation Debtor and as otherwise required by the Court and Bankruptcy Code their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred on or before the date that is twenty (20) calendar days after the date of this Confirmation Order, unless otherwise ordered by the Court. The Post-Confirmation Debtor shall pay in full upon a determination of allowance such Claims in such amounts as are allowed by the

Court, after notice and hearing, or upon such other less favorable terms as may be agreed upon by the holder of such an Allowed Administrative Expense Claim and approved by the Court after notice and hearing. Any request for payment of an Administrative Expense Claim by a professional or other person specified in this paragraph, which is not filed by the applicable deadline set forth above, shall be barred. Upon the Effective Date, any requirement that professionals comply with Sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for such services rendered after such date will terminate, and the Post-Confirmation Debtor will employ and pay professionals in the ordinary course of business.

13. **Resolution of Disputed Claims.** Except as otherwise ordered by the Court, any Claim that is not an Allowed Claim shall be determined, resolved or adjudicated in accordance with the terms of the Plan. On or after the Effective Date, the Post-Confirmation Debtor shall have the exclusive right to file objections, litigate to judgment, settle or withdraw objections to Disputed Claims and shall serve a copy of each objection upon the Holder of the Claim to which the objection is made as soon as practicable, but in no event later than sixty (60) days after the Confirmation Date (the “**Objection Period**”), except that the same may be extended from time to time by the Court, without further notice to the parties in interest. Notwithstanding anything provided hereinabove, the Distribution Agent shall have the right to object to unsecured claims during the Objection Period.

14. **Right to Object Pending Effective Date.** Any other party in interest may, until the Effective Date, file objections in the Bankruptcy Court to the allowance of any Claim or Interest (whether or not a Proof of Claim or Interest has been filed).

15. **Directors and Officers of Post-Confirmation Debtor.** The Post-Confirmation Debtor shall retain the Debtor’s name and will proceed to wind down its affairs under the direction of the CRO and Distribution Agent.

16. **General Authorizations.** The Post-Confirmation Debtor, Soneet R. Kapila, as CRO and Distribution Agent of the Post-Confirmation Debtor, and all other officers, employees, agents or attorneys, as applicable, are authorized and empowered pursuant to Sections 105 and 1142(b) of the Bankruptcy Code and any applicable state law to execute, acknowledge, and deliver such deeds, assignments, conveyances, releases, and other assurances, documents, instruments of transfer, uniform commercial code financing statements, trust agreements, mortgages, indentures, security agreements, and bills of sale, and to take any and all actions reasonably necessary or appropriate to implement, effectuate, and consummate any and all of the documents or transactions contemplated by the Plan or this Confirmation Order, without further order of the Court, further corporate action or further action. Without limiting the generality of the foregoing, this Confirmation Order shall constitute all approvals and consents, if any, required by the applicable state corporation laws, and all other applicable business corporation, trust and other laws of the applicable governmental units with respect to the implementation and consummation of the Plan and this Confirmation Order and the transactions contemplated thereby and hereby. Such actions are approved in all respects and shall be deemed to have occurred and be effective on the Effective Date. Following the Effective Date, each of the contracts, instruments, releases, indentures, mortgages, deeds, bills of sale, assignments, leases, or other agreements or documents entered into by the Debtor or the Post-Confirmation Debtor in connection with the Plan shall be legal, valid and binding obligations of the Post-Confirmation Debtor and enforceable against the Post-Confirmation Debtor in accordance with its terms.

17. **Binding Effect.** Except as otherwise provided in Section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date, and subject to the Effective Date, the provisions of the Plan shall bind all parties in interest including all present and former holders of a

Claim against, or Interest in, the Debtor and its respective successors, affiliates and assigns, whether or not the Claim or Interest of such Holder is impaired under the Plan and whether or not such Holder has filed a Proof of Claim or Interest or accepted the Plan. The holders of liens satisfied, discharged and released under the Plan shall execute any and all documentation reasonably requested by the Post-Confirmation Debtor evidencing the satisfaction, discharge and release of such liens and such liens shall be deemed satisfied, discharged and released by operation of this Confirmation Order.

18. **Filing and Recording.** This Confirmation Order (a) is and shall be effective as a determination that, on the Effective Date, except as otherwise provided in the Plan or this Confirmation Order, all Claims and Interests existing prior to such date have been unconditionally released, discharged and terminated in accordance with Paragraph 10 of this Confirmation Order, (b) is and shall be effective of the release and cancellation of the security interests, liens and encumbrances in property of the Debtor in accordance with Paragraph 10 of this Confirmation Order, and (c) is and shall be binding upon and shall govern the acts of all entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other persons and entities who may be required, by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or with respect to the property of the Debtor or the Post-Confirmation Debtor. Each and every federal, state and local government agency is hereby directed to accept any and all documents and instruments necessary, useful or appropriate (including without limitation, promissory notes, security agreements, mortgages, and Uniform Commercial Code

financing statements) to effectuate, implement and consummate the transactions contemplated by the Plan and this Confirmation Order without payment of any recording tax, stamp tax, transfer tax or similar tax imposed by state or local law.

19. **Corporate Existence and Revesting of Assets.** The Debtor shall, as the Post-Confirmation Debtor, continue to exist after the Effective Date as a separate legal entity, with all powers of a corporation, under the laws of its state of incorporation and without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) under such applicable state law. Except as otherwise explicitly provided in the Plan or in this Confirmation Order, on the Effective Date, all property comprising the Estate shall revest in the “**Post-Confirmation Debtor,**” free and clear of all Claims, liens, charges, encumbrances, rights, and interests of creditors and equity security holders. The Post-Confirmation Debtor may operate its business and may use, acquire and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as provided herein.

20. **No Post-Confirmation Amendment or Filing of Claims.** A Claim may not be filed or amended after the Confirmation Date without the prior agreement of the Post-Confirmation Debtor. Except as otherwise permitted herein or in the Plan, a Claim filed or amended after the Confirmation Date shall be deemed disallowed in full and expunged without any action by the Post-Confirmation Debtor.

21. **Injunction.** Except as otherwise specifically provided in the Plan and except as may be necessary to enforce or remedy a breach of the Plan, all persons or entities who have held, hold or may hold Claims, and all other parties in interest in the Bankruptcy Case, along with their respective present or former employees, agents, officers, directors or principals, shall be permanently enjoined

on and after the Effective Date from directly or indirectly (i) commencing or continuing in any manner any action or other proceeding of any kind to collect or recover any property on account of any such Claim against the Debtor or the Post-Confirmation Debtor, (ii) enforcing, attaching, collecting or recovering by any manner or means of any judgment, award, decree, or order to collect or recover any property on account of any such Claim against the Debtor or Post-Confirmation Debtor, (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Debtor or Post-Confirmation Debtor, on account of such Claim, (iv) except for recoupment, asserting any right of setoff or subrogation of any kind against any obligation due the Debtor or Post-Confirmation Debtor or against the property or interests in property of the Debtor or Post-Confirmation Debtor on account of any such Claim, (v) commencing or continuing any action against Post-Confirmation Debtor in any manner or forum in respect of such Claim that does not comply or is inconsistent with the Plan, and (vi) taking any actions to interfere with the implementation or consummation of the Plan.

22. **Automatic Stay.** The stay in effect in the Bankruptcy Case pursuant to Section 362(a) of the Bankruptcy Code shall continue to be in effect until the Effective Date, and at that time shall be dissolved and of no further force or effect, subject to the injunction set forth in Paragraph 21 of this Order and/or Sections 525 and 1141 of the Bankruptcy Code; provided, however, that nothing herein shall bar the filing of financing documents (including uniform commercial code financing statements, security agreements, leases, mortgages, trust agreements and bills of sale) or taking of such other actions as are necessary to effectuate the transactions contemplated by the Plan, the consummation of the Plan or by this Confirmation Order prior to the Effective Date.

23. **Reservation of United States Trustee Duties and Responsibilities.** The Plan (including, without limitation, the releases and promises relating to settlement negotiations and agreements) shall not be construed to inhibit or impair the Office of the United States Trustee in the

performance of its statutory duties; provided, however, that this Plan shall finally and completely resolve all civil issues and disputes in the Bankruptcy Case.

24. **Payment of Fees.** All fees payable pursuant to Section 1930 of title 18 of the United States Code shall be paid on or prior to the Effective Date, and the Post-Confirmation Debtor shall thereafter pay any statutory fees that are due until this Case is closed, converted or dismissed.

25. **Retention of Jurisdiction.** Notwithstanding confirmation of the Plan or occurrence of the Effective Date, this Court shall retain, but may decline to exercise or abstain from exercising, such jurisdiction as is provided in the Plan and as is legally permissible, including, without limitation, that provided in Article 10 of the Plan.

26. **Modification of Plan.** After the entry of this Confirmation Order and before substantial consummation of the Plan, the Post-Confirmation Debtor may, upon due notice and order of the Court (to the extent required), amend or modify the Plan in accordance with Section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan, in such manner as may be necessary to carry out the purpose and intent of the Plan.

27. **Severability.** The Confirmation Order will constitute a judicial interpretation that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

28. **Exemption from Certain Taxes and Recording Fees.** Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security, or the making, delivery, filing, or recording of any instrument of transfer under, or in connection with, the Plan shall not be taxed under any law imposing a recording tax, stamp tax, transfer tax, or similar tax. Furthermore, and without limiting the foregoing, any transfers from the Debtor to the Post-Confirmation Debtor or to any other Person or Entity pursuant to the Plan, as contemplated by the Plan, or pursuant to any

agreement regarding the transfer of title to or ownership of any of the Debtor's property in the United States will not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, sales or use tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment. All filing or recording officers (or any other Person or Entity with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of Section 1146(a) of the Bankruptcy Code, shall forgo the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. The Bankruptcy Court shall retain specific jurisdiction with respect to these matters.

29. **References to Plan Provisions.** The failure specifically to include or reference any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Plan be confirmed in its entirety.

30. **Plan Controlling.** If there is any direct conflict between the Plan and this Confirmation Order, the terms of the Plan shall control.

31. **Reversal.** If any or all of the provisions of this Confirmation Order are hereafter reversed, modified or vacatur by subsequent order of this Court or any other court, such reversal, modification or vacatur shall not affect the validity or enforceability of the acts or obligations incurred or undertaken under or in connection with the Plan prior to the Post-Confirmation Debtor's receipt of written notice of such order. Notwithstanding any such reversal, modification or vacatur of this Confirmation Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Confirmation Order prior to the effective date of such reversal, modification or

vacatur shall be governed in all respects by the provisions of this Confirmation Order and the Plan and all related documents or any amendments or modifications thereto.

32. **No Stay of Confirmation Order.** Pursuant to Rule 3020(e) of the Bankruptcy Rules, this Confirmation Order shall not be stayed and shall be effective upon entry on the docket of this Court.

33. **Applicable Non-Bankruptcy Law.** To the extent provided in Sections 1123(a) and 1142(a) of the Bankruptcy Code, the provisions of this Confirmation Order, the Plan or any amendments or modifications thereto shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

34. **Service of Confirmation Order and Post-Confirmation Notices.** The Debtor or its agents shall serve conformed copies and notice of entry of this Confirmation Order pursuant to Bankruptcy Rules 2002(f) (7), 2002(k) and 3020(c) and Local Bankruptcy Rule 3020-1(b) to all creditors, indenture trustees and equity security holders of the Debtor no later than fourteen (14) days after entry of this Order.

35. **Filing of Notice of Effective Date.** Counsel for the Debtor shall file with this Court a Notice of Effective Date, which Notice of Effective Date shall be served by the Post-Confirmation Debtor on the Local Rule 1007-2 Parties in Interest List.

DONE and ORDERED in Chambers at Tampa, Florida on July 01, 2011.



K. RODNEY MAY
United States Bankruptcy Judge