

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:)
)
New England Building Materials, LLC) Chapter 11
) Case No. 12-20109
Debtor.)

ORDER CONFIRMING DEBTOR’S SECOND AMENDED PLAN OF REORGANIZATION DATED SEPTEMBER 24, 2012, AS MODIFIED

On November 5, 2012, this Court conducted a final hearing (the “Hearing”) on confirmation of Debtor’s Second Amended Plan Of Reorganization Dated September 24, 2012(the “Plan”) [D.E.444], as modified by that certain First Modification of Second Amended Plan of Reorganization dated October 29, 2012 [D.E. 498] (the aforesaid Plan, as modified, is referred to herein as the “Modified Plan”) (all capitalized terms used herein shall have the meaning ascribed to such terms in the Modified Plan.); the Court having approved the Debtor’s Disclosure Statement in respect of said Plan (the “Disclosure Statement”) as set forth in the Order of this Court dated October 1, 2012 [D.E.463] (the “Approval Order”); the Debtor having timely caused true and correct copies of the Approval Order, the Plan, the Disclosure Statement, and ballots conforming to Official Form 14 to all known holders of Claims against and interests in the Debtor, and to all other parties (including all parties who have filed a notice of appearance in the above-captioned case) entitled to receive copies of same, such notice and service being hereby determined to be timely, adequate and sufficient notice and service to all holders of Claims against and interests in the Debtor, and all other parties in interest under the circumstances of the above-captioned case; the Approval Order having set October 31, 2012 as the deadline for filing objections to confirmation of the Plan and for submission

of ballots containing written acceptances and rejections of the Plan; Seaboard International Forest Products, LLC (“Seaboard”), the Massachusetts Department of Revenue, and TD Bank, NA (the “Bank”) having filed objections or limited objections to the Plan [D.E.495, 501 and 502, respectively], and no other parties in interest having filed timely objections to the Plan, each of such objections having been resolved by agreement of the parties and such agreements being reflected in the terms of this Order, an offer of proof having been made by the Debtor at the Hearing solely for the purposes of the Debtor’s satisfaction of and compliance with the provisions of 11 U.S.C. § 1129, and no party having objected to such offer of proof for such limited purposes, the Court having considered the arguments of counsel, the terms of the resolution of the filed objections, and the Certificate filed with this Court evidencing the ballots duly and timely received by the Debtor pursuant to the Approval Order; the Court having considered the Plan, the Modified Plan, the evidence presented by the Debtor and the arguments of counsel, and good cause having been demonstrated to the Court, the Court hereby confirms the Modified Plan in accordance with the orders set forth below, makes the following findings of fact and conclusions of law, and enters the following orders:

I. MODIFICATION OF THE PLAN

The First Modification of Second Amended Plan of Reorganization Dated September 24, 2012, filed on October 29, 2012 (the “First Modification”) [D.E. 498] is hereby approved and the Plan shall be deemed modified in accordance with the terms thereof and shall be referred to hereinafter as the “Modified Plan”. No class of creditors, holders of interests or other parties in interest being adversely affected by the First Modification, no further disclosures or balloting shall be required with respect to the

Modified Plan. All ballots accepting the Plan shall be deemed to have accepted the Modified Plan, and all ballots rejecting the Plan shall be deemed to have rejected the Modified Plan.

II. FINDINGS OF FACT

The Court hereby makes the following Findings of Fact in respect of the Modified Plan:

- A. The Modified Plan complies with the applicable provisions of the Bankruptcy Code.
- B. The proponent of the Modified Plan has complied with the applicable provisions of the Bankruptcy Code.
- C. The Modified Plan has been proposed in good faith and not by any means forbidden by law.
- D. All payments made or to be made by the Debtor for services or for costs and expenses in or in connection with the Case, or in connection with the Modified Plan, and incident to the Case, have been approved by or are subject to the approval of the Bankruptcy Court as reasonable.
- E. The Debtor has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Modified Plan, as a director or officer; and the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and Debtor has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.
- F. No regulatory approval is required to implement the Modified Plan.

G. The following classes are impaired under the Modified Plan and the holders of claims and/or interests, as the case may be, in such classes are entitled to vote for acceptance or rejection of the Modified Plan: Classes One, Two, Seven and Eight (collectively, the “Impaired Classes”). The remaining classes are unimpaired and, have accepted or deemed to have accepted the Modified Plan pursuant to Bankruptcy Code § 1126(f).

H. Each acceptance and rejection of the Plan has been solicited and procured by Debtor in good faith and in accordance with the provisions of the Bankruptcy Code.

I. Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Modified Plan provides that with respect to a Claim of a kind specified in Bankruptcy Code §§ 507(a)(1) through 507(8), on the Effective Date, that the holders of such claims will receive on account of such claim cash equal to the Allowed Amount of such claim or deferred cash payments as permitted by Bankruptcy Code § 1129(a)(9)(C). Without limiting the generality of the foregoing, the Debtor has entered into agreements with certain entities that hold claims arising under the Debtor’s self- insured health plan, which was terminated on the Petition Date, which claims are alleged to be entitled to priority under Bankruptcy Code § 507(a)(5). By virtue of such agreements, certain claims alleged to be entitled to priority pursuant to said Section 507(a)(5) have been settled, and as a result thereof, the Debtor asserts that the total amount of claims entitled to priority pursuant to said Section 507(a)(5) does not exceed, in the aggregate, \$430,000 as of the date of entry of this Order. In addition, the agreements entered into with the holders of such claims provide for the release of all claims, including priority and unsecured claims, upon payment, not only of the Debtor,

but of the present and former employees of the Debtor, and their dependents who incurred the health care claims that give rise to such priority claims. Subject to the right of the United States Department of Labor to contest the accuracy of the Debtor's assertion, the Court finds that Allowed Priority Claims arising under Bankruptcy Code §507(a)(5) do not exceed \$430,000. The Debtor has agreed that all claims allowed under Bankruptcy Code §507(a)(5), by agreement or court order, shall be satisfied on or prior to the later of (i) the Effective Date, and (ii) the date upon which such claims become allowed claims, in accordance with Article II, Section 2.2 of the Plan.

J. The Modified Plan has been accepted by all impaired classes of Claims; and at least one class of Claims that is impaired under the Modified Plan has accepted the Modified Plan, as determined without including any acceptance of the Modified Plan by any insider. United Ventures, LLC, the holder of all Interests in Class 8 of the Modified Plan did not cast a ballot; however, United Ventures, LLC consents to entry of this Order. Reference is made to Verified Statement of David C. Johnson With Respect To Voting on Debtor's Second Amended Plan of Reorganization Dated September 24, 2012, filed by the Debtor on November 2, 2012 [D.E. 509].

K. The Modified Plan does not provide for the liquidation of all or substantially all of the property of the estate. Further, confirmation of the Modified Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor.

L. The Modified Plan provides for the payment on the Effective Date of all fees payable under 28 U.S.C. § 1930 with respect to the Case.

M. The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in Section 1114 of the Bankruptcy Code, at the level established pursuant to subsection (e)(1)(B) or (g) of Section 1114 of the Bankruptcy Code, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.

N. The Debtor is a limited liability company and is not an individual.

Based upon the foregoing findings of fact (which are made solely for purposes of confirmation of the Modified Plan), the Court makes the following Conclusions of Law:

III. CONCLUSIONS OF LAW

A. The Modified Plan complies with the applicable provisions of the Bankruptcy Code.

B. The Modified Plan does not discriminate unfairly and is fair and equitable as to those classes as required by Bankruptcy Code §§ 1129(b)(1) and (2).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. The Modified Plan, shall be and hereby is confirmed. This Order shall be effective immediately and shall not be stayed notwithstanding the provisions of Fed. R. Bankr. P. 3020(e).

2. The Modified Plan and its provisions shall be binding upon (i) the Debtor; (ii) any entity acquiring or receiving property (including cash and membership interests) under the Plan; (iii) any lessor or lessee of real or personal property to or from the Debtor; and (iv) any creditor or equity security holder of the Debtor, including, without limitation, any governmental unit, as such term is defined in Bankruptcy Code § 101(27), whether or not the Claim or Interest of such creditor or equity security holder is impaired

under the Modified Plan and whether or not such creditor, equity security holder or governmental unit has accepted the Modified Plan. Further, at the election of the Debtor and Olim, the Effective Date may be established as a date prior to, but not after, November 30, 2012.

3. Pursuant to Bankruptcy Code §1141(a) and without limiting the generality of the preceding paragraph of this Order, the Modified Plan is binding on the Debtor and the Bank and Seaboard. In accordance with the Modified Plan and this Order, the Debtor is hereby authorized, without further Order of the Bankruptcy Court, to make all payments, and to make all distributions and all transfers of property required to be made or authorized to be made pursuant to the Modified Plan; provided, however, that anything contained in the Modified Plan to the contrary notwithstanding, the Debtor shall not make any distribution or transfer of property pursuant to the Modified Plan, to any creditor or party in interest, other than the Bank or Seaboard, from any collateral or proceeds of collateral of the Bank or Seaboard, until such time as the Debtor has complied with the provisions of Article IV, Section 4.1 of the Modified Plan and made final payment to the Bank and a payment of exactly \$100,000 pursuant to Section 4.2 of the Modified Plan to Seaboard (the "Initial Payment") in accordance therewith. Further, until such compliance and final payment, the Bank and Seaboard shall retain all their respective liens and encumbrances that as the case may be secure the obligations of the Debtor to the Bank as set forth in the Debtor's loan documents and the Final DIP Order (as that term is defined below) or the Debtor's obligations to Seaboard. Further, such final payment to the Bank and the Initial Payment to the Seaboard shall be made upon and subject to the following additional terms and conditions:

a. The Allowed Secured Claim of the Bank shall include principal, interest (exclusive of late fees and charges, default rates of interest or other penalty rates), and the Bank's fees and costs, including without limitation the reasonable attorneys' fees and costs incurred by the Bank. The Bank shall not be required to file an application for compensation for its attorneys' fees and costs in this Court, but the Debtor may dispute the amount thereof and such dispute shall be resolved by agreement of the Debtor and the Bank, or by the Court in accordance with this Order. In the event of any dispute between the Debtor and the Bank concerning the amount of the Bank's Allowed Secured Claim, such dispute shall be heard and determined by this Court on an expedited basis, to the extent possible, and jurisdiction for such purpose is hereby retained. As of November 2, 2012, the Debtor agrees that the Bank's Allowed Secured Claim was not less than \$899,654.79, which is the amount outstanding under the line of credit provided by the Bank to the Debtor as of that date. The Bank's Allowed Secured Claim shall also include fees and costs, as and in the manner set forth above, and shall be adjusted to reflect debits and credits on the line of credit by the Debtor through, to and including the date of payment in full.

b. Payment of the Allowed Secured Claim of the Bank and the Initial Payment to Seaboard shall be made in immediately available funds, on or prior to the Effective Date;

c. Simultaneously with payment of the Bank, the Debtor shall also comply with the provisions of Article IV, Section 4.2 of the Plan and make the Initial Payment to Seaboard provided, however, that nothing herein shall preclude the Bank from accepting at its option, payment from the Debtor if such payment to Seaboard is not made.

d. The provisions of Sections 9(a), 9(b), 9(c), 10, 21, 22, 23, 24, and 26 of the Final Order Authorizing Debtor's Use of Cash Collateral, Authorizing Debtor to Obtain Credit and Granting Superpriority Claims and Adequate Protection Liens, dated March 23, 2012 [D.E 166], as amended from time to time (the "Final DIP Order") shall remain in full force and effect notwithstanding the entry of this Order and the making of the final payment to the Bank pursuant to the Modified Plan.

e. To the extent that the Debtor continues to use cash collateral after confirmation of the Modified Plan but prior to payment in full of the Bank's Allowed Secured Claim or the Initial Payment to Seaboard and/or substantial consummation of the Modified Plan, the terms of the Final DIP Order shall continue to control and the replacement lien granted to Seaboard (see, Docket No. 323, ¶ 4) shall continue to be granted and remain in full force and effect.

f. Upon confirmation by the Bank of receipt of payment in full of the Bank's Allowed Secured Claim by the Debtor, the Bank, on the one hand, and the Debtor, the Debtor's Estate and the reorganized Debtor and/or any party claiming through any of them, on the other hand, shall be deemed to have fully and finally released each other for any and all claims, causes of action, counterclaims or setoffs of any kind arising from the beginning of time to the date of such payment. Without in any way limiting the generality of the foregoing, the Bank's obligation to make revolving credit advances to the Debtor shall terminate on such date and any revolving credit facility of Debtor with Lender shall be deemed terminated and closed. The release of Seaboard under Article IV, Section 4.2 is not impaired hereby. In furtherance thereof, upon the entry of this Order, the Debtor, the Debtor's estate, the reorganized Debtor and/or any party

claiming by or through any of them (including, without limitation, the Liquidating Trust or Liquidating Trustee) shall be deemed hereby to have fully and finally released any and all claims, Causes of Action, counterclaims or setoffs against Seaboard including, without limitation, any Chapter 5 Causes of Action against Seaboard.

g. Neither the Bank nor Seaboard shall be required to release any collateral securing the Bank's Allowed Secured Claim or Seaboard's Allowed Secured Claim until the Allowed Secured Claim of the Bank is paid in full and the Debtor makes the Initial Payment to Seaboard in accordance with the provisions of this Order, nor shall the Bank be required to release or discharge any guarantor or any collateral provided by a guarantor with respect to such Claim until the Allowed Secured Claim of the Bank is paid in full in accordance with the provisions of this Order.

h. Upon entry of this Order, a first priority, valid, and duly perfected adequate protection lien shall attach, in favor of Seaboard, to funds in the amount of \$42,668.50 held by the Debtor in its segregated escrow account at the Bank, account number 242-6813538 (the "Seaboard Adequate Protection Lien"). The Seaboard Adequate Protection Lien shall secure the Seaboard Allowed Claim, and shall be discharged upon tender to Seaboard of the Initial Payment.

4. (a) The Allowed Priority Tax Claim of the Massachusetts Department of Revenue ("MDOR") shall, in the sole discretion of the Debtor, (i) be paid in full on the Effective Date; or (ii) be paid in full in deferred equal monthly cash payments over a period of up to five (5) years from the Petition Date as permitted under Section 1129(a)(9) of the Code, together with interest thereon at a rate of 4% *per annum*; or (iii) be paid in full in accordance with such other arrangements as may be made between the

MDOR and the Debtor. In the event that the Debtor disputes the Claim of the MDOR, the finally-allowed amount of the Claim shall also accrue interest at the rate(s) determined in accordance with Bankruptcy Code § 511 from the Effective Date up to the time when the Claim is allowed in whole or in part, and thereafter shall be paid in accordance with any either option (i), (ii) or (iii) as set forth above.

(b) The Priority Tax Claim of Maine Revenues Services shall be Allowed in the amount of \$15,081.48 and shall, in the sole discretion of the Debtor, (i) be paid in full on the Effective Date; or (ii) be paid in full in deferred equal monthly cash payments over a period of up to five (5) years from the Petition Date as permitted under Section 1129(a)(9) of the Code, together with interest thereon at the rate of 7% per annum, being the rate of interest prescribed under Bankruptcy Code §511.

5. Except as otherwise expressly provided in Bankruptcy Code § 1141, the Modified Plan, or this Order, the consideration to be paid and/or delivered by the Debtor pursuant to the Modified Plan shall be paid and/or delivered, as the case may be, in full and final satisfaction, settlement, release, and discharge as against the Debtor of any and all legal and/or equitable Claims against and Interests in and to the Debtor, including, without limitation, any Claim or Interest that arose before the Confirmation Date, and any debt of a kind specified in Bankruptcy Code §§ 502(g), 502(h) or 502(i), whether or not (i) a proof of claim or interest is filed or deemed filed under Bankruptcy Code § 501; (ii) such claim or interest is allowed under Code § 502; or (iii) the holder of such claim or interest has accepted the Modified Plan. Except as otherwise expressly provided in Bankruptcy Code § 1141, the Modified Plan, or this Order, all Claims of creditors against the Debtor whose Claims have attached to, or are secured by, property in which the

Debtor has an interest shall, upon compliance by the Debtor with the terms of the Modified Plan, be released and discharged, and upon such compliance, such claims shall be deemed satisfied in full and forever released and discharged.

6. Except as otherwise expressly provided in the Modified Plan or this Order, all property of the Debtor's estate (excepting only the Chapter 5 Causes of Action, as defined in Article I, Section 1.12 of the Modified Plan and excepting any claims for breach of any document, agreement or instrument executed and delivered in connection with the Modified Plan) shall, as of the Effective Date, revert in the Debtor free and clear of all interests, liens, claims and Encumbrances of any kind and nature whatsoever, subject only to such interests, liens, claims and encumbrances as are preserved pursuant to the Modified Plan. The Chapter 5 Causes of Action shall remain property of the Debtor's estate and shall be treated in accordance with the Modified Plan.

7. Except as otherwise provided herein, after entry of this Order, all liens and Encumbrances on the Debtors' assets that do not constitute Allowed Secured Claims and that are not preserved in accordance with the Modified Plan, are hereby nullified and voided and shall be of no force and effect. Any holder of such a lien or Encumbrance shall forthwith, and without further order of this Court, cause the release and discharge of such lien or Encumbrance in every public recording office in which evidence of such lien or Encumbrance is recorded. In the event that any such holder fails and refuses to do so, then the Debtor may cause to be recorded a discharge of such lien or Encumbrance in the name of such holder, and such discharge shall be effective as if executed and delivered by the holder.

8. Except as otherwise expressly provided in the Modified Plan or in this Order, entry of this Order shall discharge the Debtor from any debt that arose before the date of entry of this Order, and any debt of a kind specified in section 502(g) or 502(i) of the Bankruptcy Code, whether or not (i) a proof of the claim based on such debt is filed or deemed filed under section 501 of this title; (ii) such claim is allowed under section 502 of this title; or (iii) the holder of such claim has accepted the plan. Any claim arising under 11 U.S.C. §502(h) shall be a claim under Class Seven of the Modified Plan, but the reorganized Debtor shall have no liability with respect to such claim. Further, the entry of this Order terminates all rights and interests of equity security holders described in Class 8 of the Modified Plan.

9. Without limiting the generality of the foregoing, all parties in interest (including, without limitation, all creditors, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors holding claims against or interests in the Debtor (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), are forever barred, estopped, and permanently enjoined from asserting such claims and interests against the Debtor, its successors or assigns except in accordance with the Modified Plan and this Order. Further, following entry of this Order, and except as provided in the Modified Plan or herein, the reorganized Debtor shall have no successor or vicarious liability of any kind or character, including, but not limited to, any theory of antitrust, environmental, successor, or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown, now existing or hereafter arising, whether fixed or contingent, with respect to any obligations of the Debtor arising before the date of

entry of this Order, including liabilities on account of any taxes relating to the assets of the Debtor or any regulatory obligation of the Debtor, or in any way relating to the Debtor's ownership or operation of its assets before entry of this Order. The reorganized Debtor shall not be (or be deemed to be) the successor to the Debtor for any law or purpose, except as expressly set forth in this Order and the Modified Plan.

10. Except as otherwise expressly provided in the Modified Plan or this Order, all creditors and equity security holders of the Debtor whose rights and interests are impaired by the Modified Plan and/or this Confirmation Order, and all persons in concert or participation with them or any of them, are hereby restrained and enjoined from instituting or continuing any action, suit or proceeding, including without limitation, any administrative proceeding or arbitration or any proceeding before any quasi-governmental entity, or employing any process to collect any Claims or pursue any Interests as liabilities or obligations of the Debtor, except as provided in the Modified Plan and this Order.

11. Until the Effective Date, and thereafter following Substantial Consummation of the Modified Plan, as that term is defined below, this Order shall also constitute an injunction enjoining any person or entity from making a claim against Olim, LLC, United Ventures, LLC, or the reorganized Debtor, its successors and assigns, based on any alleged failure to pay, or to make provision to pay, any claim provided for by the terms of the Modified Plan. In addition, none of Olim, LLC, United Ventures, LLC, or the reorganized Debtor, its successors and assigns shall have any liability to any person or entity by reason of the commencement of these proceedings, or the negotiation and pursuit of confirmation of the Modified Plan, except for claims arising from willful

misconduct or fraud, as may be determined by a final order of a court of competent jurisdiction. Without limiting the generality of the foregoing, persons or entities protected by this Order or the Modified Plan shall have the full benefits and protections of 11 U.S.C. § 1125(b). Notwithstanding the foregoing, nothing in this paragraph or Order shall preclude a party from (a) after the Effective Date, bringing claims or asserting causes of action against Olim, LLC, United Ventures, LLC, the reorganized Debtor, the Debtor or other party relating to any alleged nonperformance for which they may be held liable under the terms of the Modified Plan or any document, agreement or instrument executed and delivered in connection with the Modified Plan, or (b) proceeding against any collateral for its Allowed Claim in the event that the Debtor, the reorganized Debtor, Olim, LLC, United Ventures, LLC or other party fails to comply with its obligations with respect thereto, as such obligations are defined and established under the Modified Plan and this Order or prior order of this Court.

12. Nothing in this Order, however, is intended to impair the ability of any person or entity whose claim is disputed from asserting any right to have such a claim allowed and paid according to the Modified Plan or to prohibit the holder of any claim to seek enforcement of the provisions of the Modified Plan, nor is anything in this Order intended to change any prior, final order of this Court concerning treatment of the claim of any creditor, unless the claim of such creditor is expressly treated otherwise in the Modified Plan.

13. Nothing in this Order or the Modified Plan is intended to release any claims the Debtor, the Reorganized Debtor, the Estate, or the Liquidating Trust may have against any person or entity for any act, omission, or failure to act that occurred prior to

the Filing Date of this proceeding, except as expressly provided for in this Order or the Modified Plan, nor shall any provision of this Order or the Modified Plan be deemed to release any Post-Confirmation cause of action which may arise, except as expressly provided herein.

14. This Court shall retain jurisdiction over the Case after the Effective Date for all of the purposes set forth in Article VIII, § 8.15 of the Modified Plan, which shall include, without limitation, for the purpose of hearing and determining all claims brought by the Liquidating Trust; provided, however, that the Court's retention of jurisdiction as provided in said Article VIII, §8.15 of the Modified Plan and this Order, shall be subject to the limitations that such jurisdiction shall not exceed the lawful jurisdiction of the Court pursuant to 28 U.S.C. § 1334. In addition to the purposes described in the Modified Plan, the Court shall also retain jurisdiction to hear and determine any action or proceeding seeking to compel the Debtor to comply with its obligations under the Modified Plan.

15. After the entry of this Order, the Debtor may remedy any defect or omission or reconcile any inconsistency in the Modified Plan or in this Order in such manner as may be necessary or appropriate to carry out the purposes and intent of the Modified Plan. Any party-in-interest may object to any such modification that adversely affects its interest(s). Upon such objection, this Court shall determine if such modification is permissible.

16. In the event of any conflict between the provisions of this Order and the provisions of the Modified Plan, the provisions of this Order shall prevail and take precedence over the provisions of the Modified Plan.

17. For purposes of Bankruptcy Code § 1101(2), the Modified Plan shall be deemed to have been Substantially Consummated when all of the following conditions have been satisfied: (a) all documents required to be executed and delivered, all payments required to be made as of the Effective Date, and all other consideration required to be tendered as of the Effective Date, have been executed, delivered, made, and/or tendered, as the case may be, pursuant to the Modified Plan, and (b) and all requirements of 11 U.S.C. § 1101(2) have been satisfied.

18. The Debtor shall comply with any and all post-confirmation reporting requirements imposed by the Office of the United States Trustee.

19. The obligation of Olim, LLC to purchase and pay for equity interests in the reorganized Debtor in accordance with the Modified Plan is subject to the satisfaction or waiver by Olim, LLC of all certain conditions precedent to its performance under that certain Membership Interest Purchase Agreement between and among the Debtor, Olim, LLC and United Ventures, LLC, dated October 22, 2012. These conditions precedent were made part of the record of the hearing on confirmation of the Modified Plan.

20. Anything contained in this Order to the contrary notwithstanding, in the event that the Modified Plan has not been Substantially Consummated (as that term is defined in paragraph 17 above) on or prior to November 30, 2012, then, except as set forth below, this Order shall be immediately revoked, *nunc pro tunc* to the date of entry hereof, and without further Order of the Court. Subject to the following proviso, in the event of such revocation, confirmation of the Modified Plan shall be deemed not to have occurred, and this Order shall thereupon become null and void and of no further force or

effect; provided, however, that the provisions of paragraph 3(h) of this Order shall not be revoked or become null and void but shall remain in full force and effect.

21. The provisions of this Order are non-severable and mutually dependent.

22. The fourteen day stay otherwise imposed by Bankruptcy Rule 6004(h) and 6006(d) is hereby waived, and this Order shall be effective immediately upon entry.

DATED: November 6, 2012

/s/ James B. Haines, Jr.

Hon. James B. Haines, Jr.
U.S. Bankruptcy Judge