

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:) Chapter 11
)
DOMINION PAVING & SEALING, INC.,) Case No. 15-32966
)
Debtor.)
)

**DEBTOR'S MOTION TO SELL PROPERTY
FREE AND CLEAR OF LIENS AND INTERESTS**

Dominion Paving & Sealing, Inc. (the "Debtor"), by counsel, pursuant to 11 U.S.C. §§ 363(b) and (f) moves the Court (the "Motion") for authority to sell certain property of the Debtor, as more particularly described on Exhibit A attached hereto (the "Property") to Envirostruct, LLC (the "Buyer"), free and clear of all liens and interests, and in support thereof states as follows:

Background

1. On June 10, 2015 (the "Petition Date"), the Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.
2. The Debtor has continued in the possession of its property and has continued to operate and manage its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

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3. Prior to the Petition Date, the Debtor owned the Property subject to the secured lien of First Citizens Bank (“FCB”). A copy of the Security Agreement and related loan documents with FCB are attached hereto as Exhibit B. The Debtor is indebted to FCB in the approximate amount of \$147,000, which amount is secured against multiple pieces of collateral, including the Property.

Relief Requested

4. The Debtor proposes to sell the Property to the Buyer for \$47,500.00 (the “Purchase Price”). A copy of the Bill of Sale is attached as Exhibit C. The Purchase Price represents a fair market value of the Property given the age and condition of the Property.

5. The Debtor seeks authority to sell the Property free and clear of all liens pursuant to sections 363(b) and (f) of the Bankruptcy Code.

6. With the consent of the applicable parties, the Debtor seeks to apply 100% of the proceeds of the sale to FCB in reduction of its debt.

Basis for Relief

7. Pursuant to section 363(b)(1) of the Bankruptcy Code, a debtor may sell property of the estate other than in the ordinary course of business. A debtor may sell property not in the ordinary course of business at private sale pursuant to Rule 6004(f)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). Here, the Debtor proposes and seeks authority to sell the Property pursuant to the terms of the Bill of Sale. The Purchase Price of the Property is reasonable under the circumstances and the condition of the Property. The Purchase Price is the result of arm’s length negotiations between the Debtor and the Buyer.

8. The Debtor further proposes and requests authority to sell the Property free and clear of all liens pursuant to section 363(f) of the Bankruptcy Code.

9. The sale of the Property will benefit the Estate and is in the best interest of the Estate and its creditors.

10. The Buyer is a good faith purchaser for the purposes of section 363(m) of the Bankruptcy Code.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order substantially in the form attached hereto as Exhibit D: (i) authorizing the Debtor to sell the Property free and clear of all liens to the Buyer; (ii) directing that the Debtor shall apply the proceeds as described herein; (iii) waiving the stay imposed by Bankruptcy Rule 6004(h); and (iv) granting such other and further relief as is just and appropriate under the circumstances.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of March, 2017, a true copy of the foregoing was filed with the Court via the Clerk's CM/ECF electronic filing system and served electronically on all parties receiving electronic notice in this case and/or by first-class mail, postage prepaid to the following parties and to all parties on the attached Service List:

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730 E. Broad Street, 5th Floor
Richmond, VA 23219

Comm. of Rev. Newport News
2400 Washington Avenue
Newport News, VA 23607

Comm. of Rev. Suffolk
P.O. Box 1459
Suffolk, VA 23439

Genuine Parts Company
4625 River Green Pkwy
Duluth, GA 30096har

Owen PLC
11229 Ensley Court
Richmond, VA 23233-1850

Virginia Dept. of Taxation
P.O. Box 1115
Richmond, VA 23218

Eric S. Prezant
Justin A. Morgan
Bryan Cave LLP
161 North Clark Street, Suite 4300
Chicago, IL 60601

Carl A. Eason
Wolcott Rivers Gates
200 Bendix Road, Suite 300
Virginia Beach, VA 23452-1385

William Daniel Prince, IV
ThompsonMcMullan, PC
100 Shockoe Slip
Richmond, VA 23219

Azuga
5150 North Union Boulevard
Suite 220
Colorado Springs, CO 80918

Comm of Rev. York
P.O. Box 190
Yorktown, VA 23690

Comm. of Rev. Petersburg
135 North Union Street
Petersburg, VA 23803

Comm. of Rev. Virginia Beach
City Hall Building 1
2401 Courthouse Drive
Virginia Beach, VA 23456

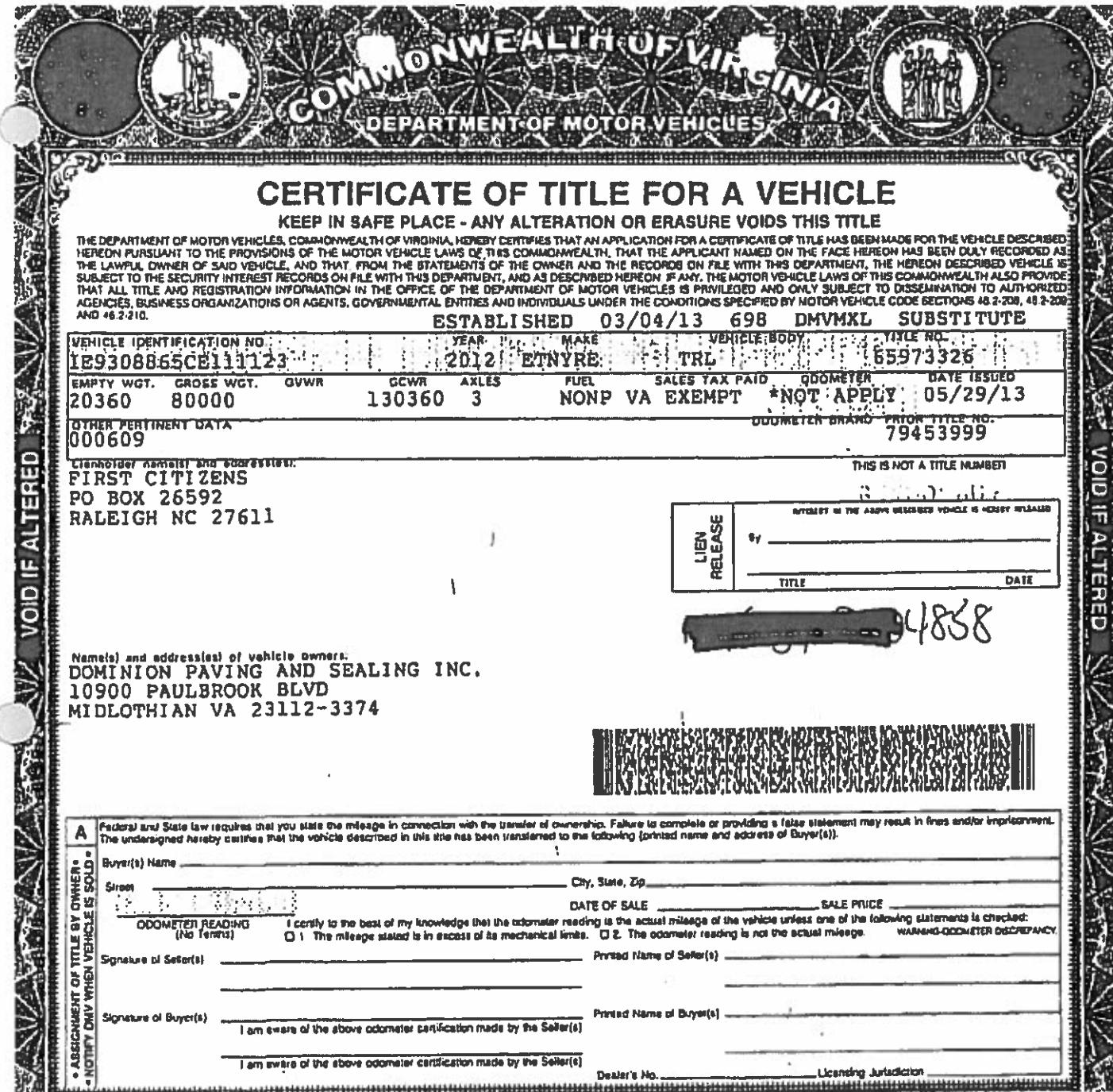
Henrico County, Virginia
Andrew Newby
Assistant County Attorney
P.O. BOX 90775
Henrico, VA 23273-0775

Quarles Petroleum
1701 Fall Hill Ave
Fredericksburg, VA 22401

Virginia Unemployment Comm.
P.O. Box 1358
Richmond, VA 23218-1358

Robert P. McIntosh
Assistant United States Attorney
Eastern District of Virginia
SunTrust Center
919 East Main Street, Suite 1900
Richmond, Virginia 23219

EXHIBIT A
(Description of Property)



11126592 BOX 26592 NC 27611-1111

EXHIBIT B
(Security Agreement)

Case 15-32966-KLP Claim 1 Part 2 Filed 06/18/15 Desc Exhibit(s) Page 2 of 46

[REDACTED]

SCC-CLERK'S OFFICE
UCC

2013 MAR 14 A 10:22

130314 3940 5

UCC FINANCING STATEMENT
FOLLOW INSTRUCTIONS (front and back) CAREFULLY
A NAME & PHONE OF CONTACT AT FILER (optional)

8 SEND ACKNOWLEDGMENT TO (Name and Address)

First Citizens Bank
Loan Servicing Department-DAC20
PO Box 26592
Raleigh, NC 27611-6592

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1 DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a ORGANIZATION'S NAME
DOMINION PAVING & SEALING, INC.

OR
1b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX
1c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
18200 HULL STREET ROAD MOSELEY VA 23120 USA
1d SEE INSTRUCTIONS ADDL INFO RE 1e TYPE OF ORGANIZATION 1f JURISDICTION OF ORGANIZATION 1g ORGANIZATIONAL ID #, if any
ORGANIZATION DEBTOR Corporation VA 0322801-2 NONE

2 ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a ORGANIZATION'S NAME
OR
2b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX
2c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
2d SEE INSTRUCTIONS ADDL INFO RE 2e TYPE OF ORGANIZATION 2f JURISDICTION OF ORGANIZATION 2g ORGANIZATIONAL ID #, if any
ORGANIZATION DEBTOR VA NONE

3 SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR IF/P) - insert only one secured party name (3a or 3b)

3a ORGANIZATION'S NAME
First-Citizens Bank & Trust Company

OR
3b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX
3c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
13101 Midlothian Turnpike Midlothian VA 23113 USA

4 The FINANCING STATEMENT covers the following collateral

All Purchase Money Security Interest in See Exhibit "A" attached hereto and incorporated herein by reference; whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and accounts proceeds).

5 ALTERNATIVE DESIGNATION (if applicable)	6 RELEASOR	7 CONSIGNEE/CONTHONOR	8 BAILEE/BALEOR	9 SELLER/BUYER	10 AG. LTN	11 NON-UCC FILING
8 THE FINANCING STATEMENT is to be filed (or recorded) in the REAL ESTATE RECORDS <input type="checkbox"/> Atch Addendum	7 Check to REQUEST SEARCH REPORT(S) on Debtor(s) <input type="checkbox"/> optional	10 ADDITIONAL FEE <input type="checkbox"/>	11 SEARCH FEE <input type="checkbox"/>	12 All Debtors <input type="checkbox"/>	13 Debtor 1 <input type="checkbox"/>	14 Debtor 2 <input type="checkbox"/>

8 OPTIONAL FILER REFERENCE DATA

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PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No	Cal/Cal	Account	Officer	Initials
\$280,400.00	02-19-2013	02-22-2018				32528	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or term.

Any item above containing "****" has been omitted due to text length limitations.

Borrower: DOMINION PAVING & SEALING, INC.
18200 HULL STREET ROAD
MOSELEY, VA 23120

Lender: First-Citizens Bank & Trust Company
Midlothian Office
13101 Midlothian Turnpike
Midlothian, VA 23113

Principal Amount: \$280,400.00

Date of Note: February 19, 2013

PROMISE TO PAY. DOMINION PAVING & SEALING, INC. ("Borrower") promises to pay to First-Citizens Bank & Trust Company ("Lender"), or order, in lawful money of the United States of America, the principal amount of Two Hundred Eighty Thousand Four Hundred & 00/100 Dollars (\$280,400.00), together with interest on the unpaid principal balance from February 19, 2013, calculated as described in the "INTEREST CALCULATION METHOD" paragraph using an interest rate of 3.500%, until paid in full. The interest rate may change under the terms and conditions of the "INTEREST AFTER DEFAULT" section.

PAYMENT. Borrower will pay this loan in 60 payments of \$5,108.00 each payment. Borrower's first payment is due March 22, 2013, and all subsequent payments are due on the same day of each month after that. Borrower's final payment will be due on February 22, 2018, and will be for all principal, accrued interest, and all other applicable fees, costs and charges, if any, not yet paid. Payments include principal and interest. Unless otherwise agreed or required by applicable law, payments will be applied in the following in the order specified: (i) unpaid interest accrued to the date of payment or the date payment is due (at Lender's option); (ii) the unpaid principal component of any payment then due; (iii) unpaid late charges, returned check fees, prepayment penalties, collection costs, and other charges then due; and (iv) the unpaid principal balance. Applying payments in the foregoing manner, Lender may, at its option, similarly sum up owing in the order in which they were billed, assessed, charged, or accrued. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

INTEREST CALCULATION METHOD. Interest on this Note is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method. This calculation method results in a higher effective interest rate than the nominal interest rate stated in this Note.

PREPAYMENT PENALTY. Upon prepayment of this Note, Lender is entitled to the following prepayment penalty: Borrower agrees to pay a prepayment penalty equal to (i) 3% of all "Excess Payments" made during any "Billing Cycle" that occurs within one year after the date of this Note, (ii) 2% of all "Excess Payments" made during any "Billing Cycle" that occurs more than one year but within two years after the date of this Note, and (iii) 1% of all "Excess Payments" made during any "Billing Cycle" that occurs more than two years but within three years after the date of this Note. Thereafter, this Note may be paid in part or in full at any time without prepayment penalty. Lender may waive or forego its right to assess and collect a prepayment penalty on future occasions. For purposes of this prepayment penalty provision, (i) a "Billing Cycle" is the period of time extending from the date a regularly scheduled payment (whether of principal, interest, or principal and interest) is due and payable under the terms of this Note, to and including the date the next ensuing regularly scheduled payment (whether of principal, interest, or principal and interest) is due and payable under the terms of this Note; (ii) if this Note is paid in full during a Billing Cycle, then all payments of principal made during that Billing Cycle shall be considered "Excess Payments" for purposes of calculating the prepayment penalty; and (iii) all payments made during a Billing Cycle in which this Note is not paid in full are considered "Excess Payments" for purposes of calculating the prepayment penalty to the extent they exceed, in the aggregate, the sum of (i) all unpaid sums owing from prior Billing Cycles (plus any late charges relating thereto), plus (ii) twice the amount of the next ensuing regularly scheduled payment (whether of principal, interest, or principal and interest). Except for the foregoing, Borrower may pay all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making lower payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to First Citizens Bank, Loan Servicing Department: DAC20, PO Box 28592 Raleigh, NC 27611-8592.

LATE CHARGE. If a payment is 5 days or more late, Borrower will be charged 5.000% of the unpaid portion of the regularly scheduled payment.

INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, the interest rate on this Note shall be increased to 18.000%. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

DEFAULT. Each of the following shall constitute an event of default ("Event of Default") under this Note:

Payment Default. Borrower fails to make any payment when due under this Note.

Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

Default in Favor of Third Parties. Borrower or any Owner defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's property or Borrower's ability to repay this Note or perform Borrower's obligations under this Note or any of the related documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Insolvency. The dissolution or liquidation of Borrower's existence as a going business, or a trustee or receiver is appointed for Borrower or for all or a substantial portion of the assets of Borrower, or Borrower makes a general assignment for the benefit of Borrower's creditors, or Borrower files for bankruptcy, or an involuntary bankruptcy petition is filed against Borrower and such involuntary petition remains undischarged for sixty (60) days.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guarantee of the indebtedness evidenced by this Note.

Change in Ownership. Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

Adverse Change. A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

LENDER'S RIGHTS. Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest, together with all other applicable fees, costs and charges, if any, immediately due and payable, and then Borrower will pay that amount.

ATTORNEYS' FEES; EXPENSES. Subject to any limits under applicable law, upon default, Borrower agrees to pay Lender's attorneys' fees and all of Lender's other collection expenses, whether or not there is a lawsuit, including without limitation legal expenses for bankruptcy

PROMISSORY NOTE
(Continued)

Page 2

proceedings

JURY WAIVER. Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other.

GOVERNING LAW. This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the Commonwealth of Virginia without regard to its conflicts of law provisions. This Note has been accepted by Lender in the Commonwealth of Virginia.

DISHONORED ITEM FEE. Borrower will pay a fee to Lender of \$35.00 if Borrower makes a payment on Borrower's loan and the check or preauthorized charge with which Borrower pays is later dishonored.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

SIMPLE INTEREST. This Note is a simple-interest note. Interest and credit insurance premiums (if applicable) continue to accrue until payments are received by Lender. The payment schedule contained in this Note assumes that all payments will be made on the scheduled due dates.

RIGHT TO CURE; ACCELERATION. Except as provided in this section, if an Event of Default is curable and no notice has been previously given by Lender of the same or any other Event of Default within the preceding 12 months, Borrower shall have 30 days following Lender's giving of written notice of default within which to cure the default. Lender may require the immediate payment of this Note in full. If the default is curable but cannot reasonably be cured within the 30-day cure period, and if Borrower commences to cure the default during the 30-day cure period and diligently proceeds thereto to cure such default, then the cure period shall be extended for a reasonable time not to exceed an additional 30 days (for a total of 60 days) in order to provide Borrower the opportunity to cure the default. However, Borrower shall not be entitled to notice of default or the opportunity to cure a default if Lender has previously given notice of a default within the preceding 12 months or if the default occurs because of (a) failure to pay any payment of principal or interest or other sums as and when due under the terms of this Note, (b) the commencement by Borrower of any proceeding for protection under any bankruptcy or insolvency laws, (c) failure to maintain in continuous full force and effect any required insurance on any collateral that secures repayment of this Note that substantially reduces the value of the collateral, or (d) any waste or any uninsured damage or injury to any collateral securing repayment of this Note that substantially reduces the value of the collateral, or the immediate threat of any such waste or uninsured damage or injury. Lender's notice of default shall be given in writing and shall be deemed given when (a) mailed by first class or certified mail to Borrower at an address Lender has for Borrower in Lender's records, or (b) when actually received by Borrower, whichever first occurs. Notice to any Borrower shall constitute notice to all Borrowers. The provisions of this section are in addition to and do not supersede or limit the application of any controlling provisions of state law concerning notice of default, the right to cure, or the right to reinstate and nothing in this Note shall be deemed a waiver of those provisions, provided, however, that the provisions of this section and any such state law shall run concurrently.

If (a) an Event of Default occurs and Borrower is not entitled under this section to notice of default and the opportunity to cure, or (b) an Event of Default occurs and the default is not cured during any applicable cure period following the giving of any required notice of default, then this Note shall, at Lender's option, become due and payable in full without demand or notice of any kind. In addition, if Lender has the right to accelerate this Note under the provisions of any security instrument as a result of collateral being sold, transferred, conveyed or encumbered, Lender shall not be further obligated to advance loan proceeds and this Note shall, at Lender's option, become due and payable in full without demand or notice of any kind. Lender's failure to exercise any of the foregoing options shall not constitute a waiver of the right to exercise such options. Waiver by Lender of any default or right to accelerate that not operate as a waiver of any other default or right to accelerate or of the same default or right to accelerate on a future occasion. Except as otherwise provided by law, acceptance by Lender of payment of less than the entire unpaid balance after acceleration of this Note shall not waive the acceleration, and Lender shall be entitled to proceed with its rights and remedies as noteholder (and as secured party, if applicable).

Notwithstanding any rights Borrower may have to notice of default and opportunity to cure, Lender will have no obligation to advance funds under this Note if: (a) Borrower is in default under the terms of this Note or any agreement that Borrower has with Lender, including any agreement made in connection with the signing of this Note, (b) any instrument securing repayment of this Note is in default, (c) any guarantor seeks, claims or otherwise attempts to limit, modify or revoke such guarantor's guarantees of this Note or any other loan with Lender, or (d) Borrower has applied funds advanced pursuant to this Note for purposes other than those authorized by Lender.

LOAN AGREEMENT. This Note is subject to the provisions of each loan agreement given, received, or signed in connection with this loan transaction, the terms and conditions of which are incorporated herein by reference. Any failure to comply with the terms and conditions of any such loan agreement shall constitute an additional "Event of Default" under the terms of this Note. If the terms of any such loan agreement conflict with the terms of this Note, the terms of this Note shall control.

INFORMATION ABOUT OTHER OBLIGATIONS. Lender is authorized to obtain such information about each Borrower's other obligations as Lender may reasonably request from the creditors of each Borrower. The information requested may include, but is not limited to, the Borrower's credit limit, the amount then owing to the creditor, the terms of repayment, whether the obligation is being paid as agreed, whether the Borrower is entitled to obtain additional credit advances, and the current payoff amount. The creditors of each Borrower are authorized and directed to promptly provide to Lender the information requested by Lender.

BORROWER'S FINANCIAL INFORMATION. For purposes of this section, "Financial Information" means information relating to Borrower's finances. Borrower covenants and agrees with Lender that, until this Note is paid in full and Borrower is no longer entitled to obtain credit advances, Borrower will furnish Lender with such Financial Information at such times and in such detail as Lender may reasonably request, including, but not limited to, the following: (i) Borrower's personal financial statement (if Borrower is an individual); (ii) Borrower's quarterly and year-end balance sheet and profit and loss statements (if Borrower is engaged in business activities); (iii) copies of Borrower's federal and state tax returns and all schedules relating thereto, including Schedule K-1 (if applicable); and (iv) such additional information and statements, lists of assets and liabilities, aging of receivables and payables, inventory schedules, budgets, forecasts, tax returns, and other reports with respect to Borrower's financial condition and business operations as Lender may reasonably request from time to time.

Borrower warrants and represents that: (i) all Financial Information Borrower has provided and that has been provided on Borrower's behalf to date is true and accurate in all material respects and fairly presents Borrower's financial condition and business transactions as of the date of the Financial Information provided; and (ii) Financial Information Borrower provides and that is provided on Borrower's behalf in the future will be true and accurate in all material respects and will fairly present Borrower's financial condition and business transactions as of the date of the Financial Information provided. Borrower further warrants and represents that, except as specifically disclosed in the Financial Information, (i) Borrower has no direct or contingent liabilities, (ii) title to all assets listed in the Financial Information is solely in Borrower's name, and no other person or entity has an interest in such assets, (iii) there exist no liens, encumbrances, or defects in or upon the assets listed in the Financial Information, (iv) all taxes owed by Borrower have been fully paid and discharged, except taxes not then due and payable without penalty, (v) there are no claims, actions, or proceedings pending or threatened against Borrower or any of Borrower's property, and (vi) there are no judgments or liens against Borrower or any of Borrower's property. With respect to each copy of Borrower's tax returns given to Lender, Borrower warrants and represents that: (i) the copy is a true and accurate copy of the return, as filed; (ii) the original of the return was properly signed or electronically authenticated by Borrower or on Borrower's behalf and submitted to the appropriate tax authority, and (iii) the return accurately states Borrower's income, deductions and tax liability for the period stated. Borrower acknowledges that Lender has relied and will rely on Borrower's Financial Information.

Borrower covenants and agrees to send written notice to Lender within five (5) business days after the occurrence of any change that is both material and adverse in (a) Borrower's financial condition or business transactions, (b) Borrower's ability to perform Borrower's obligations to Lender, or (c) Financial Information previously given.

Borrower authorizes Lender and its affiliates to make such credit, employment, and investigative inquiries about Borrower from time to time as Lender and its affiliates deem appropriate to evaluate Borrower's financial strength, character, and credit history, to administer the loan evidenced by this Note, and to collect any sums owing. Lender is authorized to verify information about Borrower and obtain consumer report(s) about each individual who signs this Note as a Borrower or in a representative capacity on behalf of a Borrower.

SUCCESSOR INTERESTS. The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

GENERAL PROVISIONS. If any part of this Note cannot be enforced, the fact will not affect the rest of the Note. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waives presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, and take

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PROMISSORY NOTE
(Continued)

Page 3

any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made.

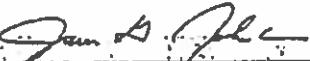
PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

BORROWER:

DOMINION PAVING & SEALING, INC.
By:  (Seal)
STEPHEN H. MARHAM, Secretary of DOMINION

By:  (Seal)
JAMES G. JOHNSTON, President of DOMINION
PAVING & SEALING, INC.

LENDER:

FIRST-CITIZENS BANK & TRUST COMPANY

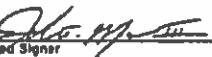

X _____
Authorized Signer

Image of a standard U.S. Notary Seal.

Case 15-32966-KLP Claim 1 Part 2 Filed 06/18/15 Desc-Exhibit(s) Page 6 of 46

4858

FIRST-CITIZENS BANK & TRUST COMPANY

SECURITY AGREEMENT
(VIRGINIA)

*Replaces previous
Security Agreement

This Security Agreement ("Security Agreement") is dated as of February 19, 2013, in this Security Agreement:

- The "Owner" is/are: Dominion Paving & Sealing, Inc.

Owner's address for notification purposes is: 10900 Paulbrook Boulevard
Midlothian, Virginia 23112-3374

- The "Lender" is First-Citizens Bank & Trust Company, whose address is: First-Citizens Bank & Trust Company, Attn: Loan Servicing Department-DAC20, P.O. Box 26592, Raleigh, NC 27611-6592.
- "Borrower" refers individually and collectively to each Owner, unless the following blank is completed, in which case the "Borrower" is/are: Dominion Paving & Sealing, Inc.

For good and valuable consideration, including the obligations now or hereafter to be secured by this Security Agreement, the receipt and sufficiency of which are hereby acknowledged, Owner and Lender agree as follows:

I. DEFINITIONS.

a) **Collateral.** The "Collateral" consists of the following personal property of Owner, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located, together with any and all additions, attachments, accessories and accretions thereto and replacements thereof, any after-acquired similar properties, all supporting obligations relating thereto, and the proceeds and products thereof, including insurance proceeds: (Check applicable box or boxes)

<input type="checkbox"/> Accounts (including health-care-insurance receivables)	<input type="checkbox"/> Equipment
<input type="checkbox"/> General intangibles (including payment intangibles)	<input type="checkbox"/> Inventory
<input type="checkbox"/> Instruments (including promissory notes)	<input type="checkbox"/> Deposit accounts
<input type="checkbox"/> Documents	<input type="checkbox"/> Investment property
<input type="checkbox"/> Chattel paper	<input type="checkbox"/> Letter-of-credit rights

Other - Specify. See Exhibit "A" as attached.

All Purchase Money Security Interest in See

**Exhibit "A" attached hereto and incorporated
herein by reference**

The following information should be provided only if the Collateral includes as-extracted collateral (such as minerals), timber to be cut, or goods that are or are to become fixtures:

- 1) The Collateral is or includes as-extracted collateral; timber to be cut, and/or goods that are or are to become fixtures.
- 2) The real property to which the Collateral is related is located in the State of _____, County of _____, City of _____, and is more particularly described or identified as follows:

The record owner(s) of the foregoing real property is/are:

Case 15-32966-KLP Claim 1 Part 2 Filed 06/18/15 Desc-Exhibit(s) Page 7 of 46

b) **Collection Expenses.** The term "Collection Expenses" includes, without limitation, (i) costs reasonably incurred by Lender to trace, locate, recover, repossess, transport, hold, store, insure, appraise, and assess (including environmental assessments) Collateral and prepare Collateral for sale; (ii) costs reasonably incurred by Lender to sell, lease or otherwise dispose of Collateral; (iii) the cost of any bonds Lender is required to post; (iv) court costs; and (v) to the extent permitted by applicable law, Lender's reasonable attorneys' fees actually incurred for the purpose of enforcing Lender's rights under this Security Agreement, but only if the legal services are performed by an attorney who is not a salaried employee of Lender. Lender's reasonable attorneys may include, without limitation, attorneys' fees for dispute resolution proceedings, at trial, for bankruptcy proceedings (including efforts to modify or vacate any automatic stay, or injunction), and on appeal.

c) **Lien.** The term "Lien" means any statutory or common law consensual or non-consensual mortgage, pledge, security interest, encumbrance, lien, right of reentry, claim or charge of any kind, including, without limitation, any conditional sale or other title retention transaction, any lease transaction in the nature thereof and any secured transaction under the Uniform Commercial Code of any jurisdiction.

d) **Obligations.** "Obligation" refers individually to each of the following, and "Obligations" refers collectively to all of the following:

- 1) Borrower's note or credit agreement dated February 19, 2013, in the original principal sum of \$280,400.00 payable to the order of Lender, and any renewals, extensions or modifications thereof;
- 2) All other obligations and indebtedness of Borrower to Lender, now existing or hereafter arising, and any renewals, extensions or modifications thereof;
- 3) All liabilities of Owner to Lender under this Security Agreement;
- 4) All "Collection Expenses" (as defined in this Security Agreement); and
- 5) The repayment of any amounts that Lender advances or spends for the maintenance or preservation of the Collateral or for the benefit of Owner.

However, subsection (d)(2) above will not include: (i) indebtedness with respect to which no truth-in-lending disclosure was made that collateral securing other indebtedness may secure such indebtedness, if such disclosure was required by the federal Truth in Lending Act and its implementing regulations, or (ii) any other indebtedness that may not, under applicable law, be secured by any collateral other than that which is specifically given as collateral in connection with such indebtedness.

c) **Permitted Liens.** The term "Permitted Liens" means (i) Liens held by Lender, (ii) Liens for taxes not delinquent or for taxes being diligently contested in good faith by Owner by appropriate proceedings (provided neither the Lien nor the proceeding impairs any of the Collateral or Lender's rights, remedies or lien priority with respect thereto), (iii) mechanic's, workman's, materialman's, landlord's, carrier's, and other like Liens arising in the ordinary course of business with respect to Obligations which are not due or which are being diligently contested in good faith by Owner by appropriate proceedings (provided neither the Lien nor the proceeding impairs any of the Collateral or Lender's rights, remedies or lien priority with respect thereto), and (iv) Liens specifically consented to in writing by Lender.

f) **UCC.** The term "UCC" means the Uniform Commercial Code as adopted in the Commonwealth of Virginia and as amended from time to time. Any term defined in the UCC and not defined in this Security Agreement has the meaning given to that term in the UCC in effect on the date of this Security Agreement.

2. **OWNER'S NAME AND LOCATION.** Owner warrants and represents that:

a) Owner's exact legal name is as set forth in the first paragraph of this Security Agreement.

b) Owner is:

an individual. Owner's principal residence is located in the State of _____.

a corporation incorporated under the laws of the State of Virginia.

a limited liability company (LLC) organized under the laws of the State of _____.

a general partnership or joint venture whose chief executive office is located in the State of _____.

a limited partnership organized under the laws of the State of _____.

Other - Specify: _____.

Owner's chief executive office is located in the State of _____.

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3. **LOCATION OF COLLATERAL THAT CONSISTS OF GOODS.** Owner warrants and represents that:

a) Collateral that consists of vehicles or other titled property will be titled solely in the Commonwealth of Virginia. Owner will not take or permit any action that would require application for a certificate of title in any state other than Virginia without Lender's prior written consent.

b) Collateral that consists of vehicles will be principally garaged at the following location:

10900 Paulbrook Boulevard
Midlothian, Virginia 23112 3374

Owner will not change the place where any vehicle is principally garaged without Lender's prior written consent.

c) All Collateral consisting of goods other than vehicles will be kept at the following location or locations:

The property where the Collateral will be kept:

Is owned by Owner.

Is leased by Owner from _____.

Except for inventory used or sold in the ordinary course of Owner's business, Owner will not remove the Collateral from that location or those locations without Lender's prior written consent.

4. **GRANT OF SECURITY INTEREST.** Owner hereby grants a continuing security interest in the Collateral to Lender to secure the payment or performance of the Obligations. However, Lender is not granted, and will not have, a non-purchase money security interest in household goods to the extent such a security interest would be prohibited by 12 C.F.R. § 227.13(d) or other applicable law.

5. **PERFECTION OF SECURITY INTEREST.**

a) Owner authorizes Lender to file financing statements describing the Collateral and any agricultural items or other statutory liens held by Lender.

b) Owner will execute all documents, take all actions, and pay all fees, taxes and expenses necessary to have Lender identified as the secured creditor and lienholder on any certificate of title relating to the Collateral.

c) Owner will cooperate with Lender's efforts to obtain control of Collateral consisting of deposit accounts, investment property, letter-of-credit rights, and electronic chattel paper, and will execute appropriate agreements for such purpose. Owner authorizes and directs any third party to comply with the terms of this Security Agreement, to enter into agreements regarding control of such types of Collateral ("Control Agreements"), and to mark its records to show Lender's security interest.

d) Owner will not create any chattel paper that is payable to Owner without placing a legend on the chattel paper acceptable to Lender indicating that Lender has a security interest in the chattel paper.

e) Whenever required by Lender, Owner will promptly deliver to Lender, with all endorsements and/or assignments required by Lender, all instruments, chattel paper, guarantees, and the like received by Owner constituting, evidencing, or relating to any of the Collateral or proceeds of any of the Collateral.

f) Where Collateral is in the possession of a third party, Owner will join with Lender in notifying the third party of Lender's security interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of Lender.

g) Owner agrees to sign and/or deliver any additional documents and to take any further actions reasonably requested by Lender to evidence or perfect the security interest granted herein, to maintain the first priority of the security interest, or to effectuate the rights granted to Lender in this Security Agreement.

6. **RIGHTS CONCERNING THE COLLATERAL.**

a) Until an event of default occurs, Owner may have possession of Collateral consisting of tangible personal property and the beneficial use of all of the Collateral. Owner may use the Collateral in any lawful manner not inconsistent with this Security Agreement. However, Owner's right to possession and beneficial use will not apply to any Collateral to the extent Lender is required by law or chooses to perfect its security interest in such Collateral by possession or control.

b) Either party to this Security Agreement may inspect any Collateral in the other party's possession at any time upon reasonable notice.

c) The Collateral will remain personal property at all times. Except to the extent the Collateral specifically includes goods that are or are to become fixtures, Owner will not affix any of the Collateral to any real property in any

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manner that would change its nature from that of personal property to real property or to a fixture without Lender's prior written consent.

- d) If Lender at any time has possession of any Collateral, whether before or after an event of default, Lender will be deemed to have exercised reasonable care in the custody and preservation of the Collateral if Lender takes such action for that purpose as Owner requests or as Lender, in Lender's sole discretion, deems appropriate under the circumstances, but failure to honor any request by Owner will not of itself be deemed to be a failure to exercise reasonable care.
- e) Except for Collateral in Lender's possession, Owner has the risk of loss of the Collateral.
- f) Lender has no duty to (i) collect any income accruing on the Collateral, (ii) enforce or preserve any rights relating to the Collateral, or (iii) preserve rights against account debtors or other parties that have a prior interest in the Collateral.

7. **OWNER'S REPRESENTATIONS, WARRANTIES, AND COVENANTS.** Owner warrants, represents and covenants as follows:

- a) Owner has rights in and the power and authority to transfer the Collateral. The Collateral is free and clear of all Liens, except for Permitted Liens. No financing statement covering any of the Collateral is on file in any public office other than those that reflect the security interest created by this Security Agreement or to which Lender has specifically consented. Owner will defend Lender's rights in the Collateral against the claims and demands of all other persons.
- b) Owner will take such actions and execute and deliver to Lender such documentation as Lender may reasonably request to provide Lender with a properly perfected and continuing first lien security interest in the entire Collateral. Owner will pay the cost of filing any financing statements that Lender deems necessary or desirable.
- c) Owner will, whenever requested, advise Lender of the exact location of all Collateral. Owner will permit Lender to make copies and extracts from Owner's books and records relating in any way to the Collateral. If the Collateral includes accounts, Owner will provide schedules of accounts to Lender at Lender's request.
- d) Owner will not do any of the following without first obtaining Lender's written consent: (i) sell, offer to sell, lease, convey, license or otherwise transfer or dispose of any of the Collateral or any interest therein, except in the ordinary course of Owner's business, or (ii) grant any other security interest in any of the Collateral.
- e) Owner will not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any Lien, other than Permitted Liens, without Lender's prior written consent. This includes security interests, even if junior-in-right to the security interest granted under this Security Agreement.
- f) To the extent the Collateral consists of goods, Owner will keep the Collateral in good order and repair, ordinary wear and tear excepted, and will not waste or destroy, or permit the waste or destruction of, the Collateral or any part thereof. Owner will not use the Collateral in violation of any statute, regulation or ordinance. Owner will promptly pay when due all taxes and assessments upon the Collateral arising from its use, operation, or ownership.
- g) To the extent the Collateral consists of accounts, chattel paper, instruments or general intangibles, the Collateral is enforceable in accordance with its terms, is genuine, and fully complies with all applicable laws and regulations concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. There are no offsets or counterclaims against any of the Collateral, and no agreement has been made under which any deductions or discounts may be claimed concerning the Collateral, except those disclosed to Lender in writing.
- h) To the extent Collateral consists of government contracts, Owner will immediately notify Lender and execute and deliver all documents and take all actions deemed necessary by Lender to ensure recognition by the applicable governmental body of the rights of Lender in accordance with applicable law.
- i) Owner will notify Lender in writing prior to the occurrence of any of the following events:
 - (1) A change in Owner's name or Owner's assumed business name(s);
 - (2) A change in Owner's principal residence (if Owner is an individual), state of organization (if Owner is a registered organization), or state where Owner's chief executive office is located (if Owner is any other type of organization);
 - (3) Owner converts to a different type of entity;
 - (4) Owner's legal existence is suspended or terminated;
 - (5) Owner merges or consolidates with or into any other entity; or
 - (6) Owner sells all or substantially all of its assets.
- j) Unless the following box is checked , this is not a "consumer transaction" as defined in the UCC.

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8. INSURANCE. This section applies to the extent the Collateral consists of tangible personal property (including, but not limited to, inventory, equipment, motor vehicles, boats, and trailers).

- a) Owner will procure and maintain comprehensive casualty insurance covering all risks, including (but not limited to) fire (including so-called extended coverage), theft and liability coverage, together with such other insurance as Lender may reasonably require with respect to the Collateral. If the Collateral is or includes one or more motor vehicles, the insurance coverage to be procured and maintained by Owner will include collision insurance. Owner may obtain such insurance from any duly licensed company or companies. However, all policies must be in such form, contain such terms, be for such periods of time, provide for such deductibles, and be in such amounts as Lender may reasonably require, subject to any limitations imposed by applicable law. Insurance will be payable to Lender and Owner as their respective interests may appear. Each policy will include a stipulation that coverage will not be cancelled or diminished without at least fifteen days' prior written notice to Lender, and no policy may include any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy will also include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Owner or any other person. Owner will furnish Lender certificates or other evidence satisfactory to Lender of compliance with these requirements.
- b) Owner will promptly notify Lender of any loss or damage to the Collateral. Lender may make proof of loss if Owner fails to do so within fifteen days of the casualty. Owner hereby assigns to Lender the proceeds of all such insurance to the extent of any balance due on the Obligations. Owner authorizes and directs each insurer to make payments directly to Lender. Owner hereby appoints Lender as Owner's attorney-in-fact for the purposes set forth in this section. This appointment will be deemed a power coupled with an interest and will not be terminable as long as any of the Obligations are outstanding. This power of attorney shall not be affected by the subsequent incapacity, disability, or incompetence of the principal or by the lapse of time. This power of attorney gives Lender the right (but not the obligation) to file proof of loss and/or any other claim forms required to collect from any insurer any amount due from loss, damage or destruction of any of the Collateral, to agree to and bind Owner as to the amount of said recovery, to designate payees of such recovery, to grant releases to payors-insurers for their liability, to grant subrogation rights to any such payor-insurer, and to endorse any settlement check or draft. Other than filing proof of loss and claim forms, Owner agrees not to exercise any of the foregoing powers granted to Lender without Lender's written consent. If the cost of any such insurance is financed as part of any Obligation secured by this Security Agreement, Owner hereby assigns to Lender any premium refund.
- c) Net insurance proceeds may be applied, at Lender's option, either toward replacing or restoring the Collateral, in a manner and on terms satisfactory to Lender, or as a credit against such of the Obligations, whether matured or unmatured, as Lender may determine in its sole discretion. If Lender allows the proceeds to be used to replace or restore Collateral, then such net proceeds will be deposited in a segregated account under Lender's exclusive control and may be disbursed therefrom by Lender in such manner and at such times as Lender deems appropriate to complete such replacement or restoration.

9. RIGHTS OF LENDER TO PROTECT ITS INTEREST IN COLLATERAL.

- a) At its option, Lender may (but will not be required to) discharge Liens levied or placed on the Collateral at any time and pay for the maintenance, repair, upkeep and preservation of the Collateral.
- b) If Owner fails to maintain insurance on the Collateral as required by this Security Agreement, Lender may (but will not be obligated to) obtain and pay for such insurance or any other insurance that Lender deems appropriate to protect the interest of Lender and/or Owner in the Collateral, including, if Lender so chooses, "single interest insurance" or "collateral protection insurance" that covers only Lender's interest in the Collateral.
- c) Any sums expended by Lender under this Security Agreement may be added to the Obligations secured by this Security Agreement and, unless otherwise provided by law, will, at Lender's option (i) be payable on demand, or (ii) be added to the balance of any specific Obligation then outstanding and bear interest and be payable as part of that Obligation.
- d) Lender's rights and remedies under this Security Agreement, including the right to declare the existence of an event of default, will not be affected by any expenditure made by Lender under this section.

10. EVENTS OF DEFAULT. Whenever used in this Security Agreement, the term "event of default" means any one or more of the following events:

- a) The occurrence of any default or event of default in the performance or payment of any one or more of the Obligations or any related security instrument;
- b) The failure by Owner to comply fully with any covenant, condition or agreement contained in this Security Agreement;
- c) Owner's breach of any representation, warranty or covenant contained in this Security Agreement;
- d) Any warranty, representation or statement made or furnished to Lender by or on behalf of Owner proves to have been false or misleading in any material respect when made or furnished;
- e) Loss, theft, substantial damage or destruction of or to any of the Collateral that is not fully covered by insurance or otherwise promptly replaced by Owner following such loss, theft, substantial damage or destruction;

- i) The sale, lease, conveyance or transfer of any of the Collateral without Lender's prior written consent, other than the sale of inventory and the collection of accounts in the ordinary course of Owner's business;
- ii) Owner's dissolution, business failure, liquidation, or termination of existence;
- iii) Owner's corporate or legal existence is terminated or suspended, or Owner fails to maintain its corporate or legal existence in good standing;
- iv) Any voluntary or involuntary bankruptcy, reorganization, insolvency, receivership or other similar proceeding is commenced by or against any Owner under any federal or state law, or any Owner becomes insolvent, makes any assignment for the benefit of creditors, or conveys substantially all of its assets;
- v) The issuance of any writ of garnishment, attachment, levy, or forfeiture order for or against any of the Collateral;
- vi) The filing of any tax lien or judgment against any Owner that is not satisfied, released or discharged within 30 days of entry, and
- vii) The occurrence of anything that Lender in good faith believes endangers the Collateral or Owner's ability to perform its obligations under this Security Agreement.

11. **REMEDIES UPON DEFAULT.** If an event of default occurs, Lender will have the rights and remedies specified in this section. Before exercising any of the rights and remedies listed below, Lender will give such notice of default and opportunity to cure as may be expressly required by the secured Obligations and applicable law. All of Lender's rights and remedies are cumulative and may be enforced alternately, successively, or concurrently.

- a) Lender may, at its option, declare all or any portion of the Obligations to be immediately due and payable in full without notice of intent to accelerate, notice of acceleration, presentment, demand for payment, protest or notice of any kind, all of which are hereby expressly waived.
- b) Lender will have (i) all of the rights and remedies of a secured party under the UCC, (ii) all of the rights and remedies available to a secured creditor at law, in equity, or otherwise, and (iii) the right to obtain the appointment of a receiver to enforce such rights and remedies.
- c) Lender may notify account debtors to make payment directly to Lender and enforce Owner's rights against account debtors and obligors.
- d) At Lender's request, Owner will assemble the Collateral and make it available to the Lender at a place to be designated by the Lender that is reasonably convenient to both the Owner and the Lender. Owner grants to Lender the right, for this purpose, to enter into or on any premises where Collateral may be located and remove the Collateral from the premises.
- e) No delay or omission by Lender to exercise any right or remedy following an event of default will (i) impair any right or remedy, (ii) waive any event of default or operate as an acquiescence to the event of default, or (iii) affect any subsequent event of default of the same or of a different nature.
- f) In any sale, lease, license or other disposition of Collateral by Lender:
 - (1) Lender has no obligation to clean up or otherwise process or prepare Collateral for sale, lease, licensing or other disposition.
 - (2) Lender may sell, lease, license or otherwise dispose of Collateral without giving any warranty as to the Collateral. Lender may specifically disclaim any warranties of title or the like. This procedure will not be considered to affect adversely the commercial reasonableness of any sale, lease or other disposition of the Collateral.
 - (3) If Lender sells any of the Collateral upon credit, Borrower and Owner will be credited only with payments actually made by the purchaser, received by the Lender and applied to the Obligations. If the purchaser fails to pay for the Collateral, Lender may resell the Collateral and Borrower and Owner will be credited with the proceeds of the sale as received.
 - (4) If the Lender purchases any of the Collateral being sold, Lender may pay for the Collateral by crediting some or all of the Obligations.
- g) Any UCC requirement for Lender to give reasonable notification will be deemed satisfied and the notice deemed commercially reasonable if such notice is given at least ten days before the event in question. For example, the requirement for reasonable notification of the time and place of any public sale of Collateral will be deemed satisfied and the notice deemed commercially reasonable if such notice is given at least ten days before the date of the sale.
- h) Lender has no obligation to attempt to satisfy the Obligations by collecting them from any other person liable for them. Lender may release, modify or waive any collateral provided by any other person to secure any of the Obligations, all without affecting Lender's rights and remedies against Owner. Owner waives any right Owner may have to require Lender to pursue any third person for any of the Obligations.

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- i) If the proceeds of any sale, lease, license or other disposition of the Collateral is insufficient to pay the Obligations in full, the party or parties liable for payment of the Obligations shall remain liable for any deficiency.
12. **DEFAULT COSTS.** If an event of default occurs, Owner will pay Lender all costs reasonably incurred by Lender for the purpose of enforcing its rights under this Security Agreement, including, but not limited to, Collection Expenses.
13. **RIGHT OF SETOFF.** Lender has the right of setoff provided by law and/or as provided by any deposit account agreement or other agreement Owner has or may hereafter have with Lender. Following and during the continuance of any event of default, Lender may exercise its right of setoff against all deposits, monies, securities and other property of Owner now or hereafter in Lender's possession or on deposit with Lender, whether held in general or special accounts or deposits, whether held alone or jointly with others, and whether held for safekeeping or otherwise. However, Lender may not exercise a right of setoff against IRA, Keogh, agency, fiduciary or trust accounts. Lender may exercise its right of setoff without demand upon or notice to Owner or anyone else.
14. **OWNER'S WAIVERS.** If Owner and Borrower are not the same person or persons, Lender may, without Owner's knowledge, consent or joinder, extend, renew or modify any of the Obligations of Borrower secured by this Security Agreement. Neither Lender's security interest in the Collateral nor Owner's liability under this Security Agreement will be released or diminished as a result of any such extension, renewal or modification without Lender's express written consent. To the extent permitted by applicable law, Owner waives any and all rights or defenses arising by reason of (i) any "one action" or "unit-deficiency" law or any other law that may prevent Lender from bringing any action, including a claim for deficiency, against Owner, before or after Lender's commencement or completion of any foreclosure action; (ii) any election of remedies by Lender that impairs Owner's subrogation rights or Owner's rights to proceed against any Borrower for reimbursement; (iii) any right to claim a discharge on the basis of suretyship or unjustified impairment of any collateral; (iv) any law that would require Lender to recover against any Borrower or from any other person or entity and/or to realize upon any collateral security; (v) any defenses given to guarantors at law or in equity other than the actual performance and payment in full of all Obligations; and (vi) any law concerning exemption and homestead rights. To the extent permitted by applicable law, Owner also expressly waives all benefits, claims, rights and defenses Owner may have or acquire that are based on: (i) any statutory or common law provision limiting the liability of or requiring the discharge or exoneration of a guarantor or surety, (ii) the law of suretyship or impairment of collateral, including any benefits, claims, rights or defenses Owner may have or acquire pursuant to § 8.9A-419, § 8.3A-605, and § 49-25, et seq., of the Virginia Code, as amended from time to time, (iii) any statutory or common law provision that releases, discharges or limits the liability of a remaining debtor following the release of a joint debtor, or (iv) any legal or equitable doctrine or principle of marshalling. Lender shall not be required to sell or dispose of collateral in inverse order of alienation or any other particular order. Without affecting or lessening Owner's liability to Lender under this Assignment, Lender may do or not do any of the following with respect to the Obligations without Owner's knowledge, consent or joinder: (i) grant extensions of time for payment, (ii) grant renewals, (iii) permit modifications of payment terms or other terms or conditions, (iv) release one or more borrowers or guarantors from liability, and (v) exchange or release any collateral or other security. Nothing will discharge or satisfy Owner's Obligations under this Security Agreement except the full and final performance and payment of all Obligations, without deduction by reason of setoff, defense or counterclaim.
15. **CALCULATION OF SURPLUS OR DEFICIENCY.** In any calculation of a surplus or deficiency made under § 8.9A-615(f) of the Virginia Code, the following shall be the finder of fact's basis for determining the value of the Collateral: (a) the Collateral that is the subject matter of the disposition shall be valued in an "as is" condition as of the date of the disposition, without any assumption or expectation that the Collateral will be repaired or improved in any manner; (b) the valuation shall be based on the assumption that the transferee of the Collateral desires a resale of the Collateral for cash promptly (but no later than 30 days) following the disposition; (c) all reasonable closing costs customarily borne by the seller in commercial sale transactions relating to property similar to the Collateral shall be deducted, including, without limitation, brokerage commissions, tax provisions, attorneys' fees, and marketing costs; (d) the value of the Collateral that is the subject matter of the disposition shall be further discounted to account for any estimated holding costs associated with maintaining the Collateral pending sale or other disposition and other maintenance, operational and ownership expenses; and (e) any expert opinion testimony given or considered in connection with a determination of the value of the Collateral must be given by persons having at least 5 years experience in appraising property similar to the Collateral and who have conducted and prepared a complete written appraisal of the Collateral taking into consideration the factors set forth above. The "value" of any such Collateral shall be a factor in determining the amount of proceeds that would have been realized in a disposition to a transferee other than a secured party, a person related to a secured party or a secondary obligor under § 8.9A-615(f) of the Virginia Code.
16. **WAIVER OF JURY TRIAL. EACH PARTY TO THIS SECURITY AGREEMENT HEREBY WAIVES THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY.**
17. **MISCELLANEOUS.**
 - a) This Security Agreement will continue in effect as to any Collateral that consists of consumer goods until Lender is required to file a termination statement pursuant to § 8.9A-513 of the Virginia Code. Otherwise, this is a continuing Security Agreement that will continue in full force and effect (even though from time to time no sums may be owing from Borrower to Lender) until (i) all of the Obligations have been performed, paid and satisfied in full, (ii) Borrower is not otherwise obligated or indebted to Lender, (iii) there is no commitment to make an advance, incur an obligation, or otherwise give value, and (iv) Owner requests Lender in writing to cancel this Security Agreement and terminate any related financing statements.
 - b) In addition to the power of attorney granted to Lender under section 8(b) of this Security Agreement, Owner hereby appoints Lender as Owner's attorney-in-fact with full power of substitution to take any and all appropriate action and to execute any and all documents or instruments that may be necessary or desirable to accomplish the purposes and carry out the terms of this Security Agreement, including, without limitation, to execute such documents as may

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be necessary to perfect Lender's security interest in the Collateral, to endorse checks and other instruments payable to Lender, and to complete, execute and deliver any Control Agreement by Lender, Owner and third parties that may be or become required in connection herewith, and any instructions to third parties regarding, among other things, control and disposition of any Collateral which is the subject of such Control Agreements. This appointment will be deemed a power coupled with an interest and will not be terminable as long as any of the Obligations are outstanding. This power of attorney shall not be affected by the subsequent incapacity, disability, or incompetence of the principal or by the lapse of time. Neither Lender nor anyone acting on its behalf will be liable for acts, omissions, errors in judgment, or mistakes in fact in such capacity as attorney-in-fact.

- c) If there is more than one Owner, their obligations under this Security Agreement are joint and several. Each provision of this Security Agreement applies to each and all Owners.
- d) This Security Agreement is binding upon each Owner and all other persons who assume the obligations of Owner or otherwise become bound under this Security Agreement, and their respective heirs, legatees, executors, administrators, successors and assigns. This Security Agreement inures to the benefit of Lender and its successors and assigns. Lender may assign its rights and interest under this Security Agreement. If an assignment is made, Owner will render performance under this Security Agreement to the assignee. Owner waives and will not assert against any assignee any claims, defenses or setoffs that Owner could assert against Lender, other than defenses that cannot be waived. Lender does not consent to any assignments by Owner, except as expressly provided in this Security Agreement.
- e) If any provision of this Security Agreement is found to be void, invalid or unenforceable by a court or panel of arbitration of competent jurisdiction, that finding will only affect the provision found to be void, invalid or unenforceable and will not affect the remaining provisions of this Security Agreement.
- f) Any notice required by this Security Agreement will be deemed to be delivered when a record has been (i) deposited in any United States postal box if postage is prepaid and the notice is properly addressed to the intended recipient (or, if Owner is the intended recipient, to Owner's address for notification purposes as stated at the beginning of this Security Agreement or to Owner's most recent address as appears in Lender's records), (ii) received by telecopy, or (iii) personally delivered. Notice delivered to any one Owner will be deemed delivery to each Owner.
- g) Section headings used in this Security Agreement are for convenience only. They are not a part of this Security Agreement and will not be used in construing it.
- h) This Security Agreement is being executed and delivered and is intended to be performed in the Commonwealth of Virginia. This Security Agreement will be construed and enforced in accordance with the laws of the Commonwealth of Virginia, except to the extent that the UCC as adopted in the Commonwealth of Virginia provides for the application of a law of a different state.
- i) Any modifications to this Security Agreement must be made in writing and signed by the party adversely affected.

15 OTHER PROVISIONS.

IN WITNESS WHEREOF, each individual signing this Security Agreement has hereunto set his or her hand, and each other entity has caused this Security Agreement to be executed in its name by a person or persons duly authorized, all by authority duly given and all as of the date of this Security Agreement.

BUSINESS ENTITY OWNER:

Dominion Paving & Sealing, Inc.

Name of Entity:

By: 

Print/Type Name: James G. Johnston

Title: President

INDIVIDUAL OWNER(S):

Print or Type Name:

Print or Type Name:

Print or Type Name:

APPROVED AND ACCEPTED:
FIRST-CITIZENS BANK & TRUST COMPANY

By: 

Title: V.P.

Associate #: 32528 Cost Center: 878



Dominion Paving & Sealing, Inc.
Signature Page 1 of 2 (Johnston)

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be necessary to perfect Lender's security interest in the Collateral, to endorse checks and other instruments payable to Lender, and to complete, execute and deliver any Control Agreement by Lender, Owner and third parties that may be or become required in connection therewith, and any instructions to third parties regarding, among other things, control and disposition of any Collateral which is the subject of such Control Agreements. This appointment will be deemed a power coupled with an interest and will not be terminable as long as any of the Obligations are outstanding. This power of attorney shall not be affected by the subsequent incapacity, disability, or incompetence of the principal or by the lapse of time. Neither Lender nor anyone acting on its behalf will be liable for acts, omissions, errors in judgment, or mistakes in fact in such capacity as attorney-in-fact.

- c) If there is more than one Owner, their obligations under this Security Agreement are joint and several. Each provision of this Security Agreement applies to each and all Owners.
- d) This Security Agreement is binding upon each Owner and all other persons who assume the obligations of Owner or otherwise become bound under this Security Agreement, and their respective heirs, legatees, executors, administrators, successors and assigns. This Security Agreement insures to the benefit of Lender and its successors and assigns. Lender may assign its rights and interest under this Security Agreement. If an assignment is made, Owner will render performance under this Security Agreement to the assignee. Owner waives and will not assert against any assignee any claims, defenses or setoffs that Owner could assert against Lender, other than defenses that cannot be waived. Lender does not consent to any assignments by Owner, except as expressly provided in this Security Agreement.
- e) If any provision of this Security Agreement is found to be void, invalid or unenforceable by a court or panel of arbitration of competent jurisdiction, that finding will only affect the provision found to be void, invalid or unenforceable and will not affect the remaining provisions of this Security Agreement.
- f) Any notice required by this Security Agreement will be deemed to be delivered when a record has been (i) deposited in any United States postal box if postage is prepaid and the notice is properly addressed to the intended recipient (or, if Owner is the intended recipient, to Owner's address for notification purposes as stated at the beginning of this Security Agreement or to Owner's most recent address as appears in Lender's records), (ii) received by telecopy, or (iii) personally delivered. Notice delivered to any one Owner will be deemed delivery to each Owner.
- g) Section headings used in this Security Agreement are for convenience only. They are not a part of this Security Agreement and will not be used in construing it.
- h) This Security Agreement is being executed and delivered and is intended to be performed in the Commonwealth of Virginia. This Security Agreement will be construed and enforced in accordance with the laws of the Commonwealth of Virginia, except to the extent that the UCC as adopted in the Commonwealth of Virginia provides for the application of a law of a different state.
- i) Any modification to this Security Agreement must be made in writing and signed by the party adversely affected.

18 OTHER PROVISIONS.

IN WITNESS WHEREOF, each individual signing this Security Agreement has hereunto set his or her hand, and each other entity has caused this Security Agreement to be executed in its name by a person or persons duly authorized, all by authority duly given and all as of the date of this Security Agreement.

BUSINESS ENTITY OWNER:

Dominion Paving & Sealing, Inc.

Name of Entity



Print/Type Name: Stephen H. Parham

Title: Secretary

INDIVIDUAL OWNER(S):

Print or Type Name:

Print or Type Name:

Print or Type Name:

APPROVED AND ACCEPTED

FIRST-CITIZENS BANK & TRUST COMPANY

By: 

Title: V.P.

Associate #: 32528 Cost Center: 878

 Dominion Paving & Sealing, Inc.

Signature 2 of 2 (Parham)

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EXHIBIT A

**#1 BLAW KNOX PAVER model PF-4410 serial#375159 with Top-Con System V & Beam Assembly installed
Deutz Diesel, Smokeater kit, Power Tunnels, Ultra 3s w/Mat Kontrol, Oscillating Push Rollers, Electronic
Grad and Slope System(*Less Box's), Back Up Alarm, DC Worklight Package, Beacon Light, Ultimat 16
Electric Screed, 120 Volt Power Kit**

Etnyre & Co. TRLR 55ETD Trailer 2012 VIN#1E 9308865CE111123

EXHIBIT C
(Bill of Sale)

Envirostruct, 12108 Washington Highway, Ashland, Va. 23005		
DPS ASSET #	ITEM DESCRIPTION	OFFERED PRICE
#TR31	2012 Etnyer Trailer VIN # 1E9308865CE11123	\$ 47,500.00
Everette Treadway 804-798-5508 804-484-4272	Deposit	\$10,000.00
	Balance Due	\$ 37,500.00
	GRAND TOTAL	\$47,500.00
	<i>3/6/2017</i>	
	PACKAGE PRICE FOR PURCHASE OF ALL MISC. ITEMS	
	FOB DOMINION PAVING & SEALING INC. 10900 PAULBROOK DR. MIDLOTHIAN, VA 23112 TRANSPORTATION AND LOADING OF ALL ITEMS IS REQUIRED OF THE PURCHASER. ALL ITEMS ARE SOLD AS IS. NO WARRANTIES EXPRESSED OR IMPLIED.	
	Signature and Date by Dominion Paving & Sealing, Inc.	
	See Message Phone	
	Signature and Date by Envirostruct, 12108 Washington Highway, Ashland, Va. 23005	

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:)	Chapter 11
DOMINION PAVING & SEALING, INC.,)	Case No. 15-32966
Debtor.)	
)	

**ORDER AUTHORIZING DEBTOR TO SELL
PROPERTY FREE AND CLEAR OF LIENS AND INTERESTS**

This matter came before the Court upon Dominion Paving & Sealing, Inc.'s (the "Debtor") Motion To Sell Property Free and Clear of Liens and Interests (the "Sale Motion"), whereby the Debtor seeks this Court's authority, among other things, to sell a certain vehicle (the "Property") to Envirostruct, LLC (the "Buyer") pursuant to sections 363(b) and (f) of title 11 of the United States Code (the "Bankruptcy Code"). Based upon the allegations in the Sale Motion, and notice having properly been given, the Court finds as follows:

- A. Sound and appropriate business reasons exist for the Debtor to effectuate the transaction described in the Sale Motion.
- B. A sale of the Property to the Buyer under the terms described in the Sale Motion is permitted under sections 363(b), (f) and (h) of the Bankruptcy Code.
- C. The Buyer is a good faith purchaser for the purposes of section 363(m) of the Bankruptcy Code.

Christopher L. Perkins (Virginia Bar No. 41783)
LeClairRyan, A Professional Corporation
919 East Main Street, 24th Floor
Richmond, VA 23219
(804) 783-7550

Counsel for Debtor and Debtor-in-Possession

D. The Estate will benefit from the sale of the Property.

E. The Purchase Price is the best price reasonably attainable for the Property at this time.

F. Notice of the Sale Motion has been provided to all holders of any liens or interests and all other parties in interest, including the United States Trustee and all parties requesting notice, which notice constitutes proper and sufficient notice of the Sale Motion for the purposes of Rules 2002(a)(2) and 6004(a) of the Federal Rules of Bankruptcy Procedure (the **“Bankruptcy Rules”**).

Based upon the foregoing, it is hereby ORDERED as follows:

1. All capitalized terms used in this Order but not defined herein shall have the meanings ascribed to them in the Sale Motion.

2. The Sale Motion is granted and the terms of the Bill of Sale are approved as provided herein.

3. The Debtor and the Buyer are hereby authorized, pursuant to section 363(b) of the Bankruptcy Code, to take such actions as may be necessary and appropriate to implement the Bill of Sale and to consummate the sale without the necessity of a further order of this Court.

4. The Debtor is authorized, pursuant to sections 105 and 363(b) and (f) of the Bankruptcy Code, to sell the Property to the Buyer upon delivery of the consideration specified in the Bill of Sale and completion of all other deliveries required.

5. All objections and responses concerning the Sale Motion are resolved in accordance with the terms of this Order. To the extent any such objection or response was not

otherwise withdrawn, waived, settled, or otherwise provided herein, it, and all reservations and rights contained therein, is overruled and denied.

6. The sale of the Property shall vest the Buyer with good title to the Property, and shall be free and clear of any and all liens, claims, encumbrances, liabilities, obligations, licenses, covenants, pledges, security interests, charges, judgments, mortgages, conditional sales or title retention agreements, pledges, hypothecations and interests of any kind (including, without limitation, any and all "claims" as defined in section 101(5) of the Bankruptcy Code), whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, disputed or undisputed, or known or unknown, whether arising prior to or subsequent to the petition date, whether imposed by agreement, understanding, law, equity or otherwise (collectively, the "Claims"), other than as provided in the Bill of Sale.

7. The consideration payable by the Buyer for the Property constitutes payment of "value," as that term is used in section 363(m) of the Bankruptcy Code. The Buyer is a purchaser of the Property "in good faith" within the meaning of section 363(m) of the Bankruptcy Code.

8. The Bill of Sale and any related agreements may be waived, modified, amended, or supplemented by agreement of the Debtor and the Buyer without further action of the Court; provided, however, that any such waiver, modification, amendment, or supplement is not material and substantially conforms to and effectuates the Bill of Sale and any related agreements.

9. The failure specifically to include any particular provisions of the Bill of Sale or any related agreements in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court, the Debtor and the Buyer that the Bill of Sale and any related agreements are authorized and approved in their entirety with such amendments thereto as may be made by the parties in accordance with this Order.

10. This Court shall retain exclusive jurisdiction to enforce the provisions of this Order and the Bill of Sale, including, but not limited to, the interpretation of the terms, conditions and provisions hereof and thereof, the status, nature and extent of the Property and all issues and disputes arising in connection with the relief authorized herein.

11. This Order shall take effect upon entry and shall not be automatically stayed pursuant to Bankruptcy Rules 6004(h) and/or 7062.

ENTERED:

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

Christopher L. Perkins (Virginia Bar No. 41783)
LeClairRyan, A Professional Corporation
919 East Main Street, 24th Floor
Richmond, VA 23219
(804) 783-7550

Counsel for Debtor and Debtor-in-Possession

SEEN AND AGREED:

Richard C. Maxwell (Virginia Bar No. _____)
Woods Rogers PLC
10 South Jefferson Street, Suite 1400
Roanoke, VA 24011
(540) 983-7628

Counsel for First Citizens Bank

LOCAL RULE 9022-1 CERTIFICATION

Pursuant to LBR 9022-1, I hereby certify that a true copy of the foregoing was endorsed by all necessary parties.

Counsel

SERVICE LIST

Robert B. Van Arsdale
Assistant United States Trustee
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219

Assistant U.S. Trustee

Anthony J. Napolitano
BuchalterNemer, PC
1000 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90017-1730

Counsel for DIP Lender

Gary H. Leibowitz
Cole Schotz P.C.
300 E. Lombard Street, Suite 1450
Baltimore, MD 21202

Counsel for Official Committee of Unsecured Creditors

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Woods Rogers PLC
10 South Jefferson Street, Suite 1400
Roanoke, VA 24011

Counsel for First Citizens Bank