

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

IN RE:)	
)	
SERVICE WELDING & MACHINE)	CHAPTER 11
COMPANY, LLC d/b/a SERVICE)	
TANKS,)	
)	
Debtor.)	CASE NO. CASE NO. 17-30485
_____)	

MOTION TO APPROVE SALE OF PROPERTY
FREE AND CLEAR OF ANY INTEREST

* * * * *

Comes the Debtor, Service Welding & Machine Company, LLC d/b/a Service Tanks (“Service Tanks” or “Debtor”), by counsel, and hereby move the Court for entry of an Order approving the proposed sale of two (2) overhead cranes free and clear of liens, claims and encumbrances (the “Sale”). In support of this Motion, Debtor states as follows:

Jurisdiction

1. The Court has jurisdiction to hear this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper for these proceedings and this Motion in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief sought in this Motion are sections 105(a), 363(b) and 363(f) of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

3. On February 17, 2017 (the "Petition Date"), Debtor filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to manage its assets and operate its business as debtor in possession pursuant to §§ 1107(a) and 1108.¹

4. No trustee or examiner has been appointed in this case. No Unsecured Creditors Committee has been appointed in this case.

5. The Debtor is a Kentucky limited liability company and engages in the sale and installation of single and double wall storage tanks for a variety of industries including petroleum, chemical, distillery, potable water, industrial, and food/agriculture. Service Tanks was established in 1928 and was primarily manufacturing storage tanks and doing repair work. In 2013, the owners sold the business to Jeff Androla, president, and two other investors.

6. In May 2016, Debtor ceased its manufacturing operations and sold its equipment to a third party with whom it now contracts for its manufacturing needs. This change in Debtor's business model was necessary to streamline its operations and to relocate to a new property. Debtor has some remaining equipment which is of no value to the estate.

7. Debtor has received an offer to purchase five cranes (the "Assets") from Yoder Machinery Sales, 1500 Holloway Road, Holland, Ohio 43528 with a total purchase price of \$15,000.00. The Assets are more fully described as:

- (a) 2 Bridge cranes, Demag, 50' W double girder, top rider, 10 ton capacity, s/n 87022, 4 cable, safety hook, 6-way pendant, 100' L craneway attached to building supports;

¹ All statutes cited herein refer to the Bankruptcy Code unless otherwise specified.

- (b) 1 Bridge crane, Demag 55' W double girder, top rider, 15 ton capacity, s/n 87026, 4 cable, safety hook, 6-way pendant, 100' L craneway attached to building supports;
- (c) 1 Demag, 70' W double girder, top rider, 15 ton capacity, s/n 77202, 4 cable, safety hook, 6-way pendant; and
- (d) 1 Abell-Howe, 70' W double girder, top rider, 10 ton capacity, s/n not found, 8 cable, safety hook, 6-way pendant w/400' L craneway attached to building supports.

8. Stock Yards Bank & Trust Company (the "Bank" or "SYB"), has a claim against the Debtor arising from a revolving promissory note dated July 8, 2013 in the original principal amount of \$500,000.00 and as modified on August 21, 2014 increasing the principal balance to \$609,967.18 (the "Term Loan"). SYB also has a claim against the Debtor arising from a line of credit dated July 8, 2013 in the original principal amount of \$700,000.00 (the "Line of Credit Loan") and collectively with the Term Loan referred to herein as "Loan"). The Loan matured by its terms on July 8, 2015. In September 2015, Debtor entered into a Forbearance Agreement with SYB and has continued to enter into forbearance agreements with SYB with the latest being the Fifth Forbearance Agreement dated December 31, 2016 (the "Forbearance Agreement"). The principal balance due under the Forbearance Agreement is \$110,930.74 for the Term Loan and \$676,041.38 for the Line of Credit. The Forbearance Agreement expires by its terms on December 31, 2017.

9. At the time of the bankruptcy filing, the amount of the SYB's claim under the Loan was approximately \$786,972.00.

10. SYB claims a pre-petition security interest in the Debtor's property, including but not limited to accounts, chattel paper, inventory, equipment, instruments, general intangibles,

investment property, documents, deposit accounts, letter of credit rights, trademarks, copyrights, patents, contracts, checking accounts, licenses and permits, computer programs, books, records, personal property, and proceeds.

11. Service Welding & Machine Company, a Kentucky corporation owned by Earl Greer and Carl Greer (“SWMC, INC”) was granted a security interest in Debtor’s property, including but not limited to accounts, chattel paper, inventory, equipment, instruments, general intangibles, investment property, documents, deposit accounts, letter of credit rights, trademarks, copyrights, patents, contracts, checking accounts, licenses and permits, computer programs, books, records, personal property, and proceeds pursuant to the Security Agreement dated June 30, 2013 (the “Subordinated Lien”). A true and correct copy of the Security Agreement is attached hereto as **Exhibit A**.

12. At the time of the bankruptcy filing, the amount of the debt to SWMC, INC alleged to be secured by the Subordinated Lien was \$650,364.00. Debtor disputes the debt and underlying Subordinated Lien as indicated in its petition and schedules filed with this Court.

13. Regardless of Debtor’s dispute with SWMC, INC, pursuant to the Subordination and Condition Standstill Agreement executed by SWMC, INC in favor of SYB on July 8, 2013, agreed that all “loans made to [Debtor] by [SWMC, INC] shall be SUBJECT AND SUBORDINATE to any and all indebtedness, liabilities and obligations of every kind and nature of [Debtor] owed to [SYB] or any affiliate of [SYB], created directly or acquired by assignment or otherwise, either along or with others, absolute or contingent, due or not due, joint or several, and for any renewals, extensions thereof...” A true and correct copy of the Subordination Agreement is attached hereto as **Exhibit B**.

14. Debtor also borrowed money pre-petition in the fall of 2016 through a loan broker/company known as Fastballcap, LLC with lenders known as Credibly and Fora Financial Business Loans, LLC (“2016 Lenders”). Debtor believes that the 2016 Lenders assert a security interest in Debtor’s property which would be a third priority lien. However, Debtor’s search of the UCC records only indicate an asserted lien in favor of Credibly filed October 7, 2016 and an asserted lien filed by Corporation Service Company filed November 22, 2016 with no additional secured party listed. True and correct copies of the UCC filings are attached hereto as **Exhibit C**. Credibly filed a claim in the amount of \$73,654.51 with an asserted fixed interest rate of 63.06%. **Claim No. 8**. Fora Financial Business Loans, LLC has not filed a proof of claim. Debtor continues to dispute these debts.

15. Service Tanks hereby stipulates and agrees that SYB’s security interest in the Assets is a first priority lien.

16. By this Motion, Debtor seeks entry of an Order approving the sale of the Assets to Yoder Machinery Sales free and clear of all liens, claims, interests and encumbrances, with such liens, claims, interests and encumbrances attaching to the net proceeds of the sale.

17. The proposed transaction is described in the written offer submitted to the debtor by Yoder Machinery Sales (the “Purchaser”), a copy of which is attached hereto as **Exhibit D** (the “Bill of Sale”).

18. Movant believes that the proposed sale of the Assets to Purchaser pursuant to the Bill of Sale is fair and reasonable.

19. Section 363 of the Bankruptcy Code provides that a trustee, and through application of §1107(a), a debtor in possession, “after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. §363(b)(1).

20. A sale of the Assets pursuant to the Bill of Sale will generate proceeds to Debtor and SYB consents to Debtor receiving the proceeds and utilizing them in operations.

21. Service tanks has not utilized the Assets since the Petition Dates and the Debtor does not foresee the Assets as being necessary to an effective reorganization. Conversely, the Debtor submits that the reduction in overall indebtedness to be achieved upon the distribution of the Sale proceeds will enhance Debtor's ability to propose a feasible plan of reorganization.

22. The Bill of Sale is attractive to the Movant in that Debtor has an opportunity to liquidate certain surplus assets at a fair and reasonable cash price will incurring minimal expense to the Debtor's estate.

WHEREFORE, Movant respectfully requests that the Court enter an Order allowing Service tanks to sell the Assets free and clear of all liens claims and encumbrances with the creditors' liens attaching to the sale proceeds to the same extent and in the same priority as is now existing in the Assets.

A proposed Order is tendered herewith.

Respectfully submitted,

/s/s Charity B. Neukomm
CHARITY B. NEUKOMM
KAPLAN & PARTNERS LLP
710 West Main Street
Fourth Floor
Louisville KY 40202
Telephone: 502-540-8285
Facsimile: 502-540-8282
E-mail: cneukomm@kplouisville.com

CERTIFICATE OF SERVICE

It is hereby certified that on September 21, 2017, a true and correct copy of the foregoing was (a) mailed electronically through the U.S. Bankruptcy Court's ECF system to the electronic addresses as set forth in the ECF system to the U.S. Trustee and all other persons receiving electronic notifications in this case, and (b) mailed, first-class, postage prepaid, to those persons, if any, identified in the Court's Notice of Electronic Filing who do not receive electronic notice but are entitled to be served.

/s/ Charity B. Neukomm

Charity B. Neukomm

SECURITY AGREEMENT

This SECURITY AGREEMENT, dated and effective as of June 30, 2013 (as amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof, this "Agreement"), is made by and among SWMCI, LLC, a Kentucky limited liability company, and MANUFACTURED SERVICES, LLC, a Kentucky limited liability company (collectively, the "Grantor"), in favor of SERVICE WELDING & MACHINE COMPANY, a Kentucky corporation (the "Secured Party").

On the date hereof and pursuant to the terms and conditions of that certain asset purchase agreement by and between the Grantor and the Secured Party, dated as of the date hereof (the "Purchase Agreement"), the Secured Party has sold certain assets to the Grantor for consideration which includes a Secured Non-Negotiable Promissory Note of even date herewith (as amended, supplemented or otherwise modified from time to time, the "Note") in an initial aggregate unpaid principal amount of \$700,000, subject to post-closing adjustments (the "Loan"), made by the Grantor and payable to the order of the Secured Party. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Note and the Purchase Agreement, as applicable.

This Agreement is given by the Grantor in favor of the Secured Party to secure the payment and performance of all of the Secured Obligations (as defined herein).

It is a condition to the obligations of the Secured Party to make the Loan under the Note that the Grantor execute and deliver this Agreement.

In consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions.

(a) Unless otherwise specified herein, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement.

(b) Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the meanings assigned to them in the UCC. However, if a term is defined in Article 9 of the UCC differently than in another Article of the UCC, the term has the meaning specified in Article 9.

(c) For purposes of this Agreement, the following terms shall have the following meanings:

“Collateral” has the meaning set forth in *Section 2*.

“Event of Default” has the meaning set forth in the Note.

“Proceeds” means “proceeds” as such term is defined in Section 9-102 of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Collateral, collections thereon or distributions with respect thereto.

“Secured Obligations” has the meaning set forth in *Section 3*.

“UCC” means the Uniform Commercial Code as in effect from time to time in the Commonwealth of Kentucky or, when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any of the Collateral, the Uniform Commercial Code as in effect from time to time in such state.

2. Grant of Security Interest. The Grantor hereby pledges and grants to the Secured Party, and hereby creates a continuing first priority lien and security interest (the “Seller Security Interest”) in favor of the Secured Party in and to all of its right, title and interest in and to the following, wherever located, whether now existing or hereafter from time to time arising or acquired (collectively, the “Collateral”) which Seller Security Interest shall be subordinate only to the security interest granted to STOCK YARDS BANK AND TRUST COMPANY, a Kentucky banking corporation, at Closing in the form approved in advance by Secured Party in an amount not to exceed \$1,200,000 (the “SYB Security Interest”):

(a) all of the Transferred Assets; and

(b) all Proceeds and products of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

3. Secured Obligations. The Collateral secures the payment and performance of:

(a) the obligations of the Grantor from time to time arising under the Loan, the Note, this Agreement or otherwise with respect to the due and punctual payment of (i) the principal of and premium, if any, and interest on the Loan (as evidenced by the Note) (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (ii) all other monetary obligations,

including fees, costs, attorneys' fees and disbursements, reimbursement obligations, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Grantor under the Note and this Agreement; and

(b) all other agreements, duties, indebtedness, obligations and liabilities of any kind of the Grantor under, out of, or in connection with the Note, this Agreement or any other document made, delivered or given in connection with any of the foregoing, in each case whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any bankruptcy, insolvency, receivership or other similar proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several (all such obligations, liabilities, sums and expenses set forth in *Section 3* being herein collectively called the "Secured Obligations").

4. Perfection of Security Interest and Further Assurances.

(a) The Grantor shall, from time to time, as may be required by the Secured Party with respect to all Collateral, take all reasonable actions as may be requested by the Secured Party to perfect the Seller Security Interest of the Secured Party in the Collateral. All of the foregoing shall be at the sole cost and expense of the Secured Party.

(b) The Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Collateral, including any financing or continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the Seller Security Interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law, including the filing of a financing statement describing the Collateral as all assets now owned or hereafter acquired by the Grantor, or words of similar effect. The Grantor agrees to provide all information required by the Secured Party pursuant to this Section promptly to the Secured Party upon request.

(c) If any Collateral is at any time in the possession of a bailee, the Grantor shall promptly notify the Secured Party thereof and, at the Secured Party's request and option, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to the Secured Party, that the bailee holds such Collateral for the benefit of the Secured Party and the bailee agrees to comply, without further consent of the Grantor, at any time with instructions of the Secured Party as to such Collateral.

(d) The Grantor agrees that at any time and from time to time, at the expense of the Secured Party, the Grantor will promptly execute and deliver all further instruments and documents, obtain such agreements from third parties, and take all further action, that may be reasonably necessary, or that the Secured Party may reasonably request, in order to perfect and protect the Seller Security Interest granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral.

5. Covenants. Until the Secured Obligations have been paid in full, the Grantor covenants as follows:

(a) The Grantor will not, without providing at least 30 days' prior written notice to the Secured Party, change its legal name, identity, type of organization, jurisdiction of organization, corporate structure, location of its chief executive office or its principal place of business or its organizational identification number, except that only contemporaneous notice shall be required for the change of Grantor's name after Closing to include the words "Service Tanks" or words of like effect. The Grantor will, prior to any change described in the preceding sentence, take all actions reasonably requested by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(b) The Collateral will be principally kept at 700 East Main Street, Louisville, Kentucky 40202 and 175 North Wenzel Street, Louisville, Kentucky 40202, and, except for sales of current assets in the ordinary course of business, the Grantor will not relocate the Collateral from such locations without obtaining the prior written consent of the Secured Party except upon termination of the Lease covering such real estate properties by the Secured Party. The Grantor will, prior to any change described in the preceding sentence, take all actions reasonably required by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(c) The Grantor will pay promptly when due all taxes, assessments, governmental charges, and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Agreement.

(d) The Grantor shall utilize all raw goods that make up a portion of the Transferred Assets, and shall use commercially reasonable efforts to market the Inventory, which is in good condition and is not obsolete or otherwise does not meet normal commercial standards and which was conveyed to the Grantor on the Closing Date in a manner consistent with the past practices utilized by the Secured Party in the operation of the Business.

(e) The Grantor will maintain any portion of the Transferred Assets consisting of equipment (the "Equipment") in good working condition and will not sell or convey any part of the Equipment conveyed to the Grantor and subject to this Agreement except

(i) in connection with the exercise of any rights or remedies of the Grantor's Lender; (ii) the replacement of any of the Equipment after catastrophic failure, and (iii) except to the extent such Equipment is replaced by other equipment of substantially equal value or utility and with respect to which the substituted equipment the Grantor shall grant a lien and security interest to the Secured Party of equal priority to Seller Security Interest granted hereunder in the Equipment so sold or conveyed.

(f) The Grantor shall be subject to such further covenants as are provided in the Purchase Agreement.

6. Secured Party May Perform. If the Grantor fails to perform any obligation contained in this Agreement, the Secured Party may itself perform, or cause performance of, such obligation, and the reasonable and documented expenses of the Secured Party incurred in connection therewith shall be payable promptly by the Grantor; *provided that* the Secured Party shall not be required to perform or discharge any obligation of the Grantor.

7. Remedies Upon Default. If any Event of Default shall have occurred and be continuing:

(a) The Secured Party may assert all rights and remedies of a secured party under the UCC or other applicable law, including, without limitation, the right to take possession of, hold, collect, sell, lease, deliver, grant options to purchase or otherwise retain, liquidate or dispose of all or any portion of the Collateral. To the extent that the Secured Party decides to dispose of all or any portion of the Collateral and notice prior to disposition of the Collateral or any portion thereof is necessary under applicable law, written notice mailed to the Grantor at its notice address as provided in *Section 10* hereof three (3) days prior to the date of such disposition shall constitute reasonable notice, but notice given in any other reasonable manner shall be sufficient. So long as the sale of the Collateral is made in a commercially reasonable manner, the Secured Party may sell such Collateral on such terms and to such purchaser(s) as the Secured Party may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. Without precluding any other methods of sale, the sale of the Collateral or any portion thereof shall have been made in a commercially reasonable manner if conducted in conformity with reasonable commercial practices of creditors disposing of similar property. To the extent permitted by applicable law, the Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by it of any rights hereunder during the occurrence and continuance of an Event of Default except for any notices required with regard to any applicable grace or cure period. The Grantor hereby waives and releases to the fullest extent permitted by law any right or equity of disposition, redemption or liquidation with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshalling the Collateral and any other security for the Secured Obligations or otherwise. At any such sale, unless prohibited by applicable

law, the Secured Party or any custodian may bid for and purchase all or any part of the Collateral so sold free from any such right or equity of redemption.

(b) All cash Proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied in whole or in part by the Secured Party to the payment of expenses incurred by the Secured Party in connection with the foregoing or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Party hereunder, including reasonable and documented attorneys' fees, and the balance of such proceeds shall be applied or set off against all or any part of the Secured Obligations in such order as the Secured Party shall elect. Any surplus of such cash Proceeds held by the Secured Party and remaining after payment in full of all the Secured Obligations shall be paid over to the Grantor or to whomsoever may be lawfully entitled to receive such surplus. The Grantor shall remain liable for any deficiency if such cash and the cash Proceeds of any sale or other realization of the Collateral are insufficient to pay the Secured Obligations and the reasonable and documented fees and other charges of any attorneys employed by the Secured Party to collect such deficiency.

(c) If the Secured Party shall determine to exercise its rights to sell all or any of the Collateral pursuant to this Section, the Grantor agrees that, upon request of the Secured Party, the Grantor will, at its own expense, do or cause to be done all such acts and things as may be necessary to make such sale of the Collateral or any part thereof valid and binding and in compliance with applicable law, including, without limitation, waiving as expeditiously as possible any rights that it might otherwise assert.

8. No Waiver and Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to *Section 9*), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. All rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.

9. Amendments. None of the terms or provisions of this Agreement may be amended, modified, supplemented, terminated or waived, and no consent to any departure by the Grantor therefrom shall be effective unless the same shall be in writing and signed by the Secured Party and the Grantor, and then such amendment, modification, supplement, waiver or consent shall be effective only in the specific instance and for the specific purpose for which made or given.

10. Addresses For Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be given in the manner and become effective as set forth in the Note, and addressed to the respective parties at their addresses as specified on the signature pages hereof or as to either party at such other address as shall be designated by such party in a written notice to each other party.

11. Continuing Security Interest; Further Actions. This Agreement shall (a) create a continuing priority lien and security interest in the Collateral, subordinate only to the SYB Security Interest, which remain in full force and effect until payment and performance in full of the Secured Obligations, (b) be binding upon the Grantor, its successors and assigns, and (c) inure to the benefit of the Secured Party and its successors, transferees and assigns; *provided that* neither party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party.

12. Termination; Release. On the date on which the Loan, the Note and all other Secured Obligations have been paid and performed in full, the Secured Party will, at the request and sole expense of the Grantor, (a) duly assign, transfer and deliver to or at the direction of the Grantor such of the Collateral as may then remain in the possession of the Secured Party, together with any monies at the time held by the Secured Party hereunder, and (b) execute and deliver to the Grantor a proper instrument or instruments acknowledging the satisfaction and termination of this Agreement.

13. Governing Law. This Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or the Note and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky.


14. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement, the Note and the other Documents constitute the entire contracts among the parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto.

17. Entire Agreement. This Agreement, the Purchase Agreement and the other Documents constitute the entire agreement between the parties hereto regarding the subject matter hereof, all prior agreements, negotiations or discussions being merged hereinto.


[SIGNATURE PAGE FOLLOWS]

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

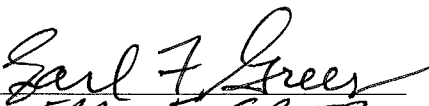
SWMCI, LLC as Grantor

By 
Name: P. J. L. Androja
Title: President
Address for Notices:
4965 US Highway 42, Suite 2800
Louisville, KY 40222

MANUFACTURED SERVICES,
LLC as Grantor

By 
Name: P. J. L. Androja
Title: President
Address for Notices:
700 East Main Street
Louisville, KY 40202

SERVICE WELDING & MACHINE
COMPANY, as Secured Party

By 
Name: EARL F. GREER
Title: President
Address for Notices:
700 East Main Street
Louisville, KY 40202

SUBORDINATION AND CONDITIONAL STANDSTILL AGREEMENT

This Subordination and Conditional Standstill Agreement (hereinafter referred to as the "Agreement") is entered into this 8th day of July, 2013, by and between **SERVICE WELDING & MACHINE COMPANY**, a Kentucky Corporation, or its assigns, with a mailing address of 700 East Main Street, Louisville, Kentucky 40202 (hereinafter referred to as "Junior Lender") AND **STOCK YARDS BANK & TRUST COMPANY**, a Kentucky Banking Corporation, with its principal offices located at 1040 East Main Street, Louisville, Kentucky 40206 (hereinafter referred to as "Lender"), and **SWMCI, LLC**, a Kentucky Limited Liability Company, with its principal office located at 4965 U.S. Highway 42, Suite 2800, Louisville, Kentucky 40222 (hereinafter referred to as "Borrower").

WHEREAS, Junior Lender has made a loan to Borrower as evidenced by a Secured Non-Negotiable Promissory Note dated July 8th, 2013 in the original principal amount of \$700,000.00; and

WHEREAS, Junior Lender may make future loans to Borrower, in various amounts and under varying terms and conditions; and

WHEREAS these loans may or may not be evidenced by a Promissory Note or Promissory Notes from Borrower to Junior Lender, or may or may not be evidenced by any type of accounting or records of Borrower to Junior Lender; and

WHEREAS the total amount of indebtedness currently outstanding and due and payable as of the date of this Agreement to Junior Lender from Borrower is \$700,000.00.

NOW THEREFORE IT IS AGREED that in consideration of and as an inducement to Lender to extend Credit to Borrower, all loans made to Borrower by Junior Lender shall be **SUBJECT AND SUBORDINATE** to any and all indebtedness, liabilities and obligations of every kind and nature of Borrower owed to Lender or any affiliate of Lender, created directly or acquired by assignment or otherwise, either along or with others, absolute or contingent, due or not due, joint or several, and for any renewals or, extensions thereof, including claims under any modification, renewal, extension, guarantee or contract of suretyship (all of which are herein call "Indebtedness").

Junior Lender and Borrower by this instrument agree to the conditions and provisions hereinafter set forth:

1. As long as no Event of Default exists under any loan document evidencing any Indebtedness of Borrower to Lender, Junior Lender may receive repayment from Borrower for any indebtedness and loans made from Junior Lender to Borrower, HOWEVER should an Event of Default exist under any loan document evidencing any Indebtedness of Borrower to Lender, OR upon Notice from Lender that an Event of Default exists under any loan document evidencing any Indebtedness of Borrower to

Lender, all repayment from Borrower to Junior Lender shall cease and terminate immediately, until such time that said Event of Default is cured and remedied to the total satisfaction of Lender AND Notice is given from Lender to Junior Lender and to Borrower that said Event of Default has been cured and that repayment from Borrower to Junior Lender may resume.

2. Notwithstanding any breach or default by Borrower under any document or instrument, including any promissory note, secured by or related to the indebtedness owed to Junior Lender, and notwithstanding that any promissory note, loan document or instrument secured thereby in favor of Junior Lender mature before the Lender's Security Documents are due and payable, Junior Lender shall not (a) foreclose upon, take possession of, or attempt to realize upon or attempt to realize upon any property, real or personal, of Borrower, or proceed in any way to enforce any claims it has or may have against Borrower under any loan document, promissory note, or other instrument in favor of Junior Lender or (b) contest, protest or object to any action taken by Lender under the Lender's Security Documents or the other Loan Documents referenced therein; in either case unless and until the Obligations have been fully and indefeasibly paid and satisfied in full and the Lender's Security Documents released of record. Notwithstanding the foregoing, if Lender initiates a foreclosure action under the Lender's Security Documents, the Junior Lender may assert its claim in that action, subject in all events to the subordination provisions of this Agreement.

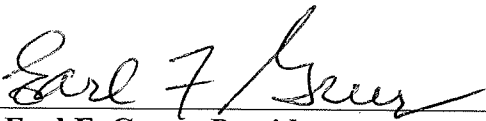
3. Borrower is hereby authorized and directed to recognize Lender's claims and rights hereunder without investigating the reason or grounds for any action taken by Lender, or whether Lender is entitled to take such action, or the validity or the amount of any Indebtedness or the existence of any default therein, or the giving of any notice hereunder or otherwise, or the application to be made by Lender of any amount to be paid to Lender. The sole signature of an authorized Officer of Lender shall be sufficient for the exercise of any rights hereunder.

4. In the event of any conflict between the provisions of this Agreement and the provisions of any Loan Document or Loan Documents evidencing any Indebtedness owed to Lender by Borrower, or rights of collateral security therein, the provisions of this Agreement shall control. This Agreement covers All monies and obligations loaned to Borrower by Junior Lender, whether now existing or which shall exist at any time in the future, in whatever form and amounts, and under whatever terms and conditions including but not limited to terms and conditions of repayment.


5. Junior Lender warrants that (a) no involuntary or voluntary bankruptcy cases are pending against Junior Lender, and (b) no portion of the monies loaned to Borrower by Junior Lender is subject to any assignment for the benefit of creditors. Junior Lender hereby guarantees the validity and sufficiency of this Agreement. This Agreement shall be binding upon the respective representatives, heirs, successors and assigns of Junior Lender, and Borrower, and shall inure to the benefit of the successors and assigns of the Lender.

JUNIOR LENDER, BORROWER, AND LENDER AGREE TO BE BOUND BY THE PROVISIONS SET FORTH HEREIN AS IS SWORN TO AND SUBSCRIBED THIS 8th DAY OF JULY, 2013.

Junior Lender:
SERVICE WELDING & MACHINE
COMPANY, a Kentucky Corporation

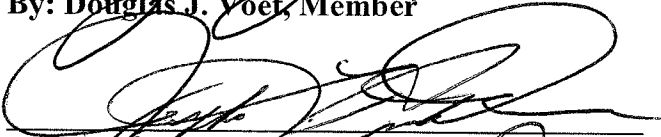

By: Earl F. Greer, President

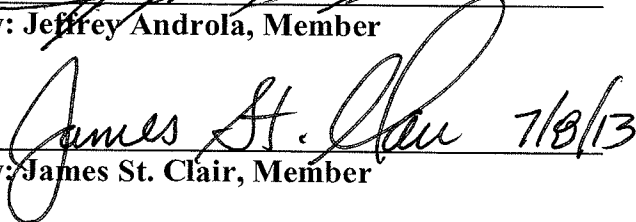
Lender:
STOCK YARDS BANK & TRUST
COMPANY, a Kentucky Banking
Corporation


By: Derrick Littlejohn, Vice President

Borrower:
SWMCI, LLC, a Kentucky Limited Liability
Company


By: Douglas J. Voet, Member


By: Jeffrey Androla, Member


By: James St. Clair, Member 7/18/13

ACKNOWLEDGMENT

STATE OF KENTUCKY }

COUNTY OF JEFFERSON } ss:

Before me, a notary public, in and for said County, personally appeared Earl F. Greer, a duly authorized Officer of Service Welding & Machine Company, a Kentucky Corporation, referred to herein as "Junior Lender", who acknowledged that he did sign the foregoing instrument and that the same is his duly authorized act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 8th day of July, 2013.

Ricella Collespie

(Notary Public)

My Commission Expires: 8-15-2015

STATE OF KENTUCKY }

COUNTY OF JEFFERSON } ss:

Before me, a notary public, in and for said County, personally appeared Douglas J. Voet, Jeffrey Androla, and James St. Clair, all duly authorized Members of SWWMCI, LLC, a Kentucky Limited Liability Company, "Borrower", who executed the foregoing instrument, and who acknowledge that they have been duly authorized to execute the foregoing instrument on behalf of the Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal this _____ day of July, 2013.

(Notary Public)

My Commission Expires: _____



2016-2858355-25.01
Kentucky Secretary of State
 File Date 10/7/2016 3:01:19 PM
 Status Active
 Fee \$5.00

UCC FINANCING STATEMENT

Name and address of filer:

CT Lien Solutions
P.O. Box 29071
Glendale, CA 91209-9071

This document is a representation of a filing made electronically at the Kentucky Secretary of State's web site

DEBTOR'S EXACT FULL LEGAL NAME

a. ORGANIZATION'S NAME SERVICE WELDING & MACHINE COMPANY, LLC				
b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
c. MAILING ADDRESS 1860 Williamson Ct		CITY Louisville	STATE KY	POSTAL CODE 40202
			COUNTRY USA	

DEBTOR'S EXACT FULL LEGAL NAME

a. ORGANIZATION'S NAME Service Tanks				
b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
c. MAILING ADDRESS 1860 Williamson Ct		CITY Louisville	STATE KY	POSTAL CODE 40202
			COUNTRY USA	

SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY)

a. ORGANIZATION'S NAME C T Corporation System, as representative				
b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
c. MAILING ADDRESS 330 N Brand Blvd, Suite 700; Attn: SPRS		CITY Glendale	STATE CA	POSTAL CODE 91203
			COUNTRY USA	

4. This FINANCING STATEMENT covers the following collateral:

(a) any and all amounts owing to you now or in the future from any merchant processor; (b) all Accounts; (c) all Chattel Paper (including Tangible Chattel Paper and Electronic Chattel Paper); (d) all Instruments; (e) all Goods, including, without limitation, Equipment, motor vehicles, Inventory, Farm Products, Accessions, and As Extracted Collateral; (f) all Documents; (g) all General Intangibles (including, without limitation, Payment Intangibles and software); (h) all Deposit Accounts; (i) all Letter of Credit Rights; (j) all Investment Property; (k) all Supporting Obligations; (l) all trademarks, trade names, service marks, logos and other sources of business identifiers, and all registrations, recordings and applications with the U.S. Patent and Trademark Office ("USPTO") and all renewals, reissues and extensions thereof (collectively "IP"); (m) any records and data relating to any of the foregoing, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of your right, title and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media; and (n) any and all proceeds of any of the foregoing, including insurance proceeds or other proceeds from the sale, destruction, loss, or other disposition of any of the foregoing, and sums due from a third party who has damaged or destroyed any of the foregoing or from that party's insurer, whether due to judgment, settlement or other process. You irrevocably authorize us and our Designees at any time and from time to time to file: (i) in any filing office in any jurisdiction any initial financing statements and amendments thereto that indicate the collateral therein as all of your assets or words of similar effect, regardless of whether such description is greater in scope than the collateral pledged to us hereunder; and (ii) such recordings with the USPTO we deem necessary or desirable to evidence the security interest in IP described above. For NJ residents only - This collateral description is within the scope of Article 9 as enacted by the state of New Jersey.



2016-2864770-83.01
Kentucky Secretary of State
 File Date 11/22/2016 4:44:46 PM
 Status Active
 Fee \$5.00

UCC FINANCING STATEMENT

Name and address of filer:
Corporation Service Company 124085247
801 Adlai Stevenson Dr
Springfield, IL 62703

This document is a representation of a filing made electronically at the Kentucky Secretary of State's web site

DEBTOR'S EXACT FULL LEGAL NAME

a. ORGANIZATION'S NAME SERVICE WELDING & MACHINE COMPANY, LLC				
b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
c. MAILING ADDRESS 1860 Williamson Court	CITY LOUISVILLE	KY	POSTAL CODE 40223	COUNTRY USA

DEBTOR'S EXACT FULL LEGAL NAME

a. ORGANIZATION'S NAME SERVICE TANKS				
b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
c. MAILING ADDRESS 1860 Williamson Court	CITY LOUISVILLE	KY	POSTAL CODE 40223	COUNTRY USA

DEBTOR'S EXACT FULL LEGAL NAME

a. ORGANIZATION'S NAME				
b. INDIVIDUAL'S SURNAME ANDROLA	FIRST PERSONAL NAME JEFFREY	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
c. MAILING ADDRESS 10905 HOBBS STATION RD	CITY LOUISVILLE	KY	POSTAL CODE 40223	COUNTRY USA

DEBTOR'S EXACT FULL LEGAL NAME

a. ORGANIZATION'S NAME				
b. INDIVIDUAL'S SURNAME VOET	FIRST PERSONAL NAME DOUGLAS	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
c. MAILING ADDRESS 616 HATHERLEIGH LN	CITY Louisville	KY	POSTAL CODE 40222	COUNTRY USA

DEBTOR'S EXACT FULL LEGAL NAME

a. ORGANIZATION'S NAME				
b. INDIVIDUAL'S SURNAME St.Clair	FIRST PERSONAL NAME James	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
c. MAILING ADDRESS 6906 Cabot Court	CITY Prospect	KY	POSTAL CODE 40059	COUNTRY USA

SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY)

a. ORGANIZATION'S NAME CORPORATION SERVICE COMPANY, AS REPRESENTATIVE				
b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
c. MAILING ADDRESS P.O. BOX 2576, UCCSPREP@CSCINFO.COM	CITY Springfield	IL	POSTAL CODE 62708	COUNTRY USA

4. This FINANCING STATEMENT covers the following collateral:

"All Assets that Borrower now owns or hereafter acquires and wherever located, including without limitation: (i) any and all amounts owing to Borrower now or in the future from any merchant processor(s) processing charges made by customers of Borrower via credit card, debit card or Electronic Benefit Transfer transactions; and

(ii) all other tangible and intangible personal property, including, but not limited to (a) inventory, (b) equipment, (c) investment property, including certificated and uncertificated securities, securities accounts, security entitlements, commodity contracts and commodity accounts, (d) instruments, including promissory notes (e) chattel paper, including tangible chattel paper and electronic chattel paper, (f) documents, (g) letter of credit rights, (h) accounts, including health-care insurance receivables, (i) deposit accounts, (j) commercial tort claims, (k) general intangibles, including payment intangibles and software and (l) as-extracted collateral as such terms may from time to time be defined in the Uniform Commercial Code. The security interest Borrower grants includes all accessions, parts, supplies and replacements for the Collateral, all products, proceeds and collections thereof and all records and data relating thereto.

Borrower is prohibited from pledging or selling any receivables owing to Borrower now or in the future to any person or entity other than Secured Party."

5. ALTERNATIVE DESIGNATION: Seller/Buyer

WARRANTY BILL OF SALE

Service Welding & Machine Company LLC d/b/a Service Tanks (“Seller”), for good and valuable consideration, hereby sells, transfers and assigns to Yoder Machinery Sales (“Buyer”), free and clear of all security interests, liens, claims or encumbrances, and Buyer does hereby acquire from Seller ownership and possession of all of the right, title and interest in and to the following assets (the “Collateral”) owned by Seller:

- (a) 2 Bridge cranes, Demag, 50’ W double girder, top rider, 10 ton capacity, s/n 87022, 4 cable, safety hook, 6-way pendant, 100’ L craneway attached to building supports;
- (b) 1 Bridge crane, Demag 55’ W double girder, top rider, 15 ton capacity, s/n 87026, 4 cable, safety hook, 6-way pendant, 100’ L craneway attached to building supports; and
- (c) 1 Demag, 70’ W double girder, top rider, 15 ton capacity, s/n 77202, 4 cable, safety hook, 6-way pendant.

This Bill of Sale shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky and is subject to Bankruptcy Court approval in *In re Service Welding & Machine Company, LLC d/b/a Service Tanks*; Case No. 17-30485 pending in the United States Bankruptcy Court for the Western District of Kentucky.

This Bill of Sale Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Bill of Sale may be signed by a party by facsimile signature, which signature shall be binding upon the signor and which signature shall be admissible in any cause or proceeding as if an original.

IN WITNESS WHEREOF, each of the undersigned has caused this instrument to be executed effective upon Order of the bankruptcy court approving the sale.

SERVICE WELDING & MACHINE COMPANY, LLC

By: _____
Jeff Androla
Its: President

CONSENT AND RELEASE

The undersigned, as _____ of Stock Yards Bank & Trust Company (“**SYB**”), represents that it has a priority lien on the Collateral created by UCC Financing Statement No. 2004-1980782-21, filed with the Kentucky Secretary of State on January 13, 2004, and UCC Financing Statement No. 2013-2653956-92, also filed with the Kentucky Secretary of State on July 15, 2013, as amended and UCC Financing Statement No. 2013-2653958-14, filed on July 15, 2013. SYB hereby acknowledges and agrees that: (i) it has consented to Seller's sale of the Collateral to Buyer, (ii) Seller is conveying the Collateral to Buyer free and clear of SYB’s lien and (iii) it shall not assert its rights under its lien with respect to the Collateral against Buyer or any person to whom Buyer sells or transfers such Collateral.

STOCK YARDS BANK & TRUST COMPANY

By: _____

Its: _____

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

IN RE:)	
)	
SERVICE WELDING & MACHINE)	CHAPTER 11
COMPANY, LLC d/b/a SERVICE)	
TANKS,)	
)	
Debtor.)	CASE NO. CASE NO. 17-30485
_____)	

ORDER APPROVING SALE OF PROPERTY
FREE AND CLEAR OF ANY INTEREST

* * * * *

This matter having come before the Court upon the Motion to Approve Sale of Property Free and Clear of Any Interest filed by Service Welding & Machine Company, LLC d/b/a Service Tanks (“Service Tanks” or “Debtor”) and the Court being otherwise sufficiently advised;

THE COURT HEREBY FINDS that the property to be sold consists of four cranes more specifically described (the “Assets”) as follows:

- (a) 2 Bridge cranes, Demag, 50’ W double girder, top rider, 10 ton capacity, s/n 87022, 4 cable, safety hook, 6-way pendant, 100’ L craneway attached to building supports;
- (b) 1 Bridge crane, Demag 55’ W double girder, top rider, 15 ton capacity, s/n 87026, 4 cable, safety hook, 6-way pendant, 100’ L craneway attached to building supports; and
- (c) 1 Demag, 70’ W double girder, top rider, 15 ton capacity, s/n 77202, 4 cable, safety hook, 6-way pendant.

IT IS HEREBY ORDERED that Service Tanks is authorized to transfer title to the Assets described above free and clear of any liens, claims or encumbrances to Yoder Machinery Sales or its assignee; and

IT IS FINALLY ORDERED that the proceeds of the authorized sale shall be delivered to Debtor.

SO ORDERED.

Charity B. Neukomm
KAPLAN & PARTNERS LLP
710 West Main Street
Fourth Floor
Louisville KY 40202
Telephone: 502-540-8285
Facsimile: 502-540-8282
E-mail: cneukomm@kplouisville.com

UNITED STATES BANKRUPTCY COURT

Western District of Kentucky

IN RE:
Service Welding &
Machine Company, LLC

Debtor(s)

Case No.:17-30485-acs

Chapter: 11
Judge: Alan C. Stout

NOTICE

TO THE DEBTOR(S) AND ALL PARTIES IN INTEREST:

Please be advised that the following matter has been Entered by the Court on this date:

Motion to Sell 2 Bridge cranes-1 Demag 50' W double girder and 1 - Demag 55' W double girder, 1 Demag 70' W double girder, and related equipment Free and Clear of Liens Fee Amount \$181. Filed by Debtor Service Welding & Machine Company, LLC. Objections due by 10/12/2017. Any objection must be typewritten and in proper pleading form as required by Federal and Local Rules. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Proposed Order) (Neukomm, Charity) Modified on 9/22/2017 (Hurtt, D).

Dated: 9/22/17

By:
Deputy Clerk

FOR THE COURT
Elizabeth H. Parks
Clerk, U.S. Bankruptcy Court