

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of the 22nd day of November, 2010 (the "Effective Date"), by and among COLONIAL CONSTRUCTION COMPANY, INC., a Florida corporation ("Colonial"), COLONIAL READY MIX, LLC, a Florida limited liability company ("Ready Mix"), CCC TRUCKING, LLC, a Florida limited liability company, ("CCC Trucking"), and together with Colonial and Ready Mix, hereinafter collectively referred to as "Sellers" and each individually as a "Seller", and BON EAU ENTERPRISES, LLC, a Florida limited liability company, and its assigns ("Buyer").

RECITALS:

WHEREAS, Sellers are engaged in the business of providing prestressed structural floor and roof systems (hollowcore plank), manufacturing hollowcore, solid slabs, and precast stairs, double T's, inverted beams, precast seawall panels, bin block, septic tanks, and cisterns, as well as supplying steel and block, producing concrete and shipping of certain of its products utilizing its trucking fleet (collectively, the "Business");

WHEREAS, the Sellers each contemplate commencing a voluntary case for reorganization (collectively, the "Bankruptcy Cases") under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Middle District of Florida, Ft. Myers Division (the "Bankruptcy Court");

WHEREAS, each of the Sellers is currently in possession of its assets and in control of its business operations and, upon commencing their Bankruptcy Cases, intend to retain possession of their respective assets and control of their respective business operation as debtors in possession pursuant to applicable provisions of the Bankruptcy Code;

WHEREAS, Sellers acknowledge that Buyer holds valid, perfected, first priority security interests and liens in and to all of the Assets and Real Property (as defined below) to secure indebtedness in the principal amount of approximately \$4,561,501.63, which secured indebtedness arises from or is evidenced by, among other things, (a) the loans (the "Loans") obtained by Sellers from M&I Bank ("M&I"), and the related promissory notes and security documents all described in the attached Exhibit "A" (collectively, the "Loan Documents") and (b) the prior assignment by M&I to Buyer of all of M&I's right, title and interest in the Loan and Loan Documents.

WHEREAS, Buyer has proposed to acquire the Assets, including the Real Property, in exchange for a credit bid of \$2,000,000 in respect of a portion of Sellers' obligations under the Loan Documents (the "Credit Bid") on the terms set forth in this Agreement.

WHEREAS, Sellers desire to sell to Buyer, and Buyer desires to purchase from Sellers, certain of the assets, real, personal and mixed, tangible and intangible, associated with or employed in the Business and owned by Sellers, and Buyer agrees to employ certain of the employees of Sellers and to assume certain of the obligations of Sellers under specified contracts from and after the

Closing (as defined below), on the terms and conditions set forth in this Agreement and in accordance with Sections 105, 363 and 365 and other applicable provisions of the Bankruptcy Code (the "Transaction");

WHEREAS, as the sale of the Assets (as defined below) will be consummated subsequent to the filing of the Bankruptcy Cases, Bankruptcy Court approval will be required to consummate the Transaction; and

WHEREAS, the Assets (as defined below) and the Assumed Liabilities (as defined below) include assets and liabilities of Sellers which are to be purchased and assumed by Buyer pursuant to an order of the Bankruptcy Court approving the Transaction (the "Sale Order") pursuant to Sections 105, 363 and 365 of the Bankruptcy Code and applicable Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), which order shall include the authorization for the assumption by Sellers of certain executory contracts and the assignment of such executory contracts to Buyer pursuant to Section 365 of the Bankruptcy Code, all in the manner and subject to the terms and conditions set forth in this Agreement and the Sale Order and in accordance with other applicable provisions of the Bankruptcy Code.

WHEREAS, on August 25, 2010 (the "Mellor Petition Date"), a principal of the Sellers, Victor G. Mellor ("Mellor"), commenced a voluntary case for reorganization under Chapter 11 of the Bankruptcy Code in the the Bankruptcy Court, under Case No. 9:10-bk-20398-DHA (the "Mellor Bankruptcy Case");

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and in reliance upon the representations, warranties, conditions and covenants contained herein and intending to be legally bound hereby, the parties hereby agree as follows:

ARTICLE I SALE AND PURCHASE OF ASSETS

1.1 Sale and Purchase of Assets. Subject to the terms and conditions of this Agreement and prior approval of the Bankruptcy Court, at the Closing, Sellers shall sell, assign, transfer and deliver to Buyer, and Buyer shall purchase, all of Sellers' assets and property of every kind and description (real, personal, and mixed, tangible and intangible) employed or held for use in the Business other than the Excluded Assets (collectively, the "Assets"), free and clear of all Encumbrances (as defined below). Without limiting the foregoing, the Assets shall include the following:

- (a) The Business as a going concern;
- (b) All goodwill of the Business;
- (c) The fixed assets described in Schedule 1.1(c) attached hereto;

(d) All cash and cash equivalents, including cash, cash accounts, including cash accounts serving as collateral for secured debt, insurance policies or programs, marketable securities and certificates of deposit, deposits made with respect to Assumed Contracts, utility deposits, and temporary investments of cash;

(e) The real property and improvements and all right, title and interests of Sellers in connection with same, legally described on Exhibit "B" attached hereto (the "Real Property");

(f) All inventories and equipment including without limitation all equipment, supplies, parts and other materials used or useable in connection with the Business, fixtures, furniture, inventory, supplies, machinery, equipment, prepaid expenses, accounts receivable, notes receivable, securities, sales data and customer lists (and any and all enhancements, derivations, developments, documents, and materials related thereto);

(g) All trucks, trailers, and other titled vehicles used in the Business;

(h) All claims and rights to and under all contracts to be assigned (and not rejected by Sellers, if any), licenses, equipment leases, instruments, commitments, agreements and other legally binding arrangements of every type and description, relating to the Business and to which any of Sellers is a party or by which any of the Assets is bound, as set forth on Schedule 1.1(h) attached hereto (singularly, an "Assumed Contract" and collectively the "Assumed Contracts"), but excluding the Excluded Contracts, if any;

(i) All computer hardware and software owned by Sellers and relating to the Business;

(j) All trade secrets, know-how, processes, procedures, research records, market surveys, licenses, proprietary information, technical information, data, plans, specifications and the like used or useable in connection with the Business;

(k) All copyrights, rights to renew copyrights, and copyright renewals, and trademarks, trade names, assumed names, service marks, and the goodwill associated therewith, registrations and applications for any and all of the foregoing, licenses with respect to any and all of the foregoing, and all imprints, logos, and all other such like property (the "Identification Property Rights") associated or identified solely and exclusively with Sellers and the Business;

(l) All right, title, and interest of Sellers in and to the names of all Sellers and all variations thereof, and any other name or term associated exclusively with the operation of the Business;

(m) All books and records relating to the Business and the Assets, including without limitation lists of customers of the Business, records with respect to financial, marketing, computer

and electronic data processing facilities, machinery and equipment, business development plans, advertising matter, correspondence, mailing lists, sales materials and records, purchasing materials and records, personnel records, promotional and marketing materials records and data, media materials and other records used in or required to continue the Business after the Closing substantially in the manner presently conducted by Sellers (provided, however, that Sellers shall be entitled to receive, at their expense, copies of such portions thereof as Sellers may reasonably request or that Sellers may need in connection with the administration of the Bankruptcy Cases);

(n) To the extent transferable under applicable law (including the Bankruptcy Code), all permits, licenses, franchises, approvals, orders and authorizations by federal, state or local governmental regulatory authorities or bodies (singularly, "Permit" and collectively "Permits") necessary for the operation of the Business; and

(o) All rights and warranties from suppliers, vendors or others for the benefit of the Business or its customers.

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the following assets, properties, and rights (collectively, the "Excluded Assets") are not included in the Assets being purchased and sold hereunder, and shall be retained by Sellers:

(a) All inventory not owned by Sellers or that is disposed of or exhausted prior to the Closing in the ordinary course of business;

(b) All intercompany amounts due or payable among Sellers;

(c) Any contract, license, instrument, commitment, agreement and other legally binding arrangement of every type and description to which any of Sellers is a party and that is not listed on Schedule 1.1(h) attached hereto (the "Excluded Contracts");

(d) Sellers' corporate record books, minute books and tax records, and any other records which Sellers are required to retain by law (provided, however, that Buyer shall be entitled to receive at its expense copies of such portions thereof as Buyer may reasonably request which are related to the Business); and

(e) Other than claims on accounts receivable or those claims otherwise subject to Buyer's lien rights, any and all of Sellers' claims, demands, rights, defenses, counterclaims, suits or actions and all other claims of any value whatsoever, whether known or unknown, in law, equity or otherwise, against any third party and the proceeds or benefits thereof, including without limitation any and all actions which a trustee, debtor in possession or other appropriate party in interest may assert on behalf of Sellers or the bankruptcy estates of Sellers under Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of Sections 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code, and Sellers' claims or causes of action for

professional negligence and director and officer liability and for any tax refunds.

1.3 Purchase Price.

(a) In consideration of and in full payment for the purchase of the Business and the Assets, including the Real Property, and subject to the provisions of this Agreement, Buyer shall pay to Sellers the sum of Two Million Dollars (\$2,000,000) (which amount the Buyer has the right to increase up to the maximum principal amount of its total debt, \$4,561,501.63, plus all accrued interest and costs incurred, in its sole discretion), subject to adjustments, if any, as provided in this Agreement, of debt forgiveness evidenced by the Credit Bid, which shall become effective on the Closing Date (the "Purchase Price").

(b) At the Closing, Sellers and Buyer shall use their best efforts to prorate, as of the Closing Date, any amounts which have been paid by Sellers for periods on and after the Closing Date with respect to (i) the Assumed Contracts, (ii) all utilities servicing any of the Assets, including without limitation, water, sewer, telephone, electricity and gas service, and (iii) any ad valorem, real or personal property taxes, and the appropriate adjustment shall be made to the Purchase Price. Any further adjustments to such proration shall be made by no later than thirty (30) days following the Closing Date and any sums owing from one party to the other shall be paid over at such time.

1.4 Closing.

(a) The consummation of the sale and purchase of the Assets and the other transactions contemplated by and described in this Agreement (the "Closing") shall take place at the offices of Stichter Riedel Blain & Prosser, P.A., 110 East Madison Street, Suite 200, Tampa, Florida 33602, at 10:00 a.m. local time on the day which is no later than two (2) Business Days following the satisfaction or waiver by the appropriate party of all the conditions precedent to Closing specified in Article IV hereof, or at such later date and/or at such other location as the parties hereto may mutually designate in writing (the "Closing Date"), provided, however, that in no event may the Closing Date be extended beyond January 24, 2011.

(b) In addition, notwithstanding the foregoing, the Closing shall not occur until all requirements set forth under Section 1.5, below, have been met and until the Sale Order, as defined below, has been entered by the Bankruptcy Court.

1.5 Bankruptcy Court Approval.

(a) Sellers shall use their best efforts to gain approval by the Bankruptcy Court of the Transaction, to the fullest extent required by Section 363 and other applicable provisions of the Bankruptcy Code and the Bankruptcy Rules. Immediately following the execution of this Agreement, but in no event later than three (3) Business Days following execution of this Agreement, Sellers shall commence their Bankruptcy Cases. Immediately following the

commencement of their Bankruptcy Cases, but in no event later than three (3) Business Days following the commencement of their Bankruptcy Cases, Sellers shall file a motion with the Bankruptcy Court, in form and substance reasonably satisfactory to Buyer, seeking the entry of an order approving certain bid procedures and bid protections, as set forth in Section 1.5(b), in connection with the sale of the Assets (the "Bid Procedures Order"), and seeking entry of an order approving the sale of the Assets to Buyer and the Transaction pursuant to the terms and conditions of this Agreement (the "Sale Order"). The Sale Order must contain a finding by the Bankruptcy Court that the Buyer is a good-faith purchaser entitled to the protections of section 363(m) of the Bankruptcy Code and providing that Rules 6004(g) and 6006(d) of the Federal Rules of Bankruptcy Procedure are waived.

(b) The Bid Procedures Order shall prescribe the procedures that shall govern an auction sale of the Assets, including but not limited to (i) the deposit that prospective cash bidders must deposit in order to qualify to bid at the auction sale (the "Bidder's Deposit"); (ii) the nature of financial information that prospective bidders must submit to establish their financial capacity to consummate a successful bid; (iii) the nature of the notice that must be disseminated to parties in interest; (iv) the minimum upset bid required to start the auction sale which in any event shall be no less than \$100,000 above the Purchase Price (the "Initial Upset Bid"); (v) the breakup fee payment (the "Breakup Fee Payment"), payable by the Sellers in cash to the Buyer in the amount of \$50,000; (vi) the reimbursement to Buyer for its reasonable expenses incurred for due diligence, contract negotiation and contract preparation (the "Expense Reimbursement"), which amount shall be \$50,000; (vii) the timetable for bidders to conduct due diligence, Sellers to file the Sale Motion, and the last day to file upset bids which in any event shall be at least two days prior to a hearing on the Sale Motion; and (viii) following an Initial Upset Bid, the incremental amount by which each bid must exceed the prior bid, which amount shall be \$100,000.

1.6 Delivery of Assets. At the Closing:

(a) Sellers shall deliver or cause to be delivered to Buyer duly executed instruments of transfer and assignment in form and substance satisfactory to Buyer and its attorneys, sufficient to vest in Buyer good title to, and all the right, title and interest of Sellers in and to, the Assets, including the Real Property, free and clear of all liens, pledges, charges, security interests, mortgages, claims, options, imperfections of title, tenancies, or other rights, interests or encumbrances of any kind or nature (collectively, "Encumbrances," and each, an "Encumbrance"), except for the Assumed Liabilities.

(b) Sellers and Buyer shall execute and deliver, or cause to be executed and delivered, such other certificates, documents and instruments as are set forth in Article IV hereof.

1.7 Assumption of Certain Obligations and Liabilities. At the Closing, Buyer shall deliver or cause to be delivered to Sellers, executed instruments in form and substance satisfactory to Sellers and their attorneys, evidencing the assumption by Buyer of the following obligations and liabilities

of Sellers (collectively, "Assumed Liabilities" and each, an "Assumed Liability"): those trade payables of Sellers which are listed on Schedule 1.7 attached hereto and liabilities arising from the Assumed Contracts and the Real Property from and after the Closing.

1.8 Obligations and Liabilities Not Assumed. Buyer shall not assume, be bound by, or be required to pay, perform or discharge any duties, responsibilities, obligations or liabilities of Sellers of any kind or nature, known, unknown, contingent or otherwise, other than those obligations and liabilities expressly assumed by Buyer pursuant to the provisions of Section 1.7 hereof (the "Excluded Liabilities"). Without limiting the foregoing, Buyer shall not assume, undertake or accept, and Sellers shall retain and be responsible for, the following Excluded Liabilities, including without limitation any that exists now or at the Closing or that may arise in the future with respect to matters occurring prior to or after the Closing:

(a) Any obligation or liability of Sellers for any federal, state, local or foreign income taxes (including without limitation any interest, penalties, additions to tax, and additional amounts attributable thereto) and all other taxes of any kind or nature, charges, fees, levies or assessments of any kind or nature imposed by any federal, state, county, local or foreign government or subdivision or agency thereof (individually, "Tax" and, collectively "Taxes");

(b) Any obligation or liability for actual or alleged non-fulfillment of legal obligations asserted in legal or governmental proceedings, litigation, claims or causes of action against Sellers (or against the Business or the Assets and relating to acts or omissions prior to the Closing);

(c) Any obligation or liability (i) arising from the failure of Sellers to perform any of the covenants or agreements contained herein to be performed by them or (ii) incurred by Sellers in connection with the consummation of the transactions contemplated hereby;

(d) Any obligation or liability of Sellers, and any obligation or liability to which the Assets may be subject (except as otherwise specifically provided in this Agreement), based upon acts or omissions of Sellers occurring after the Closing Date;

(e) Any expenses of Sellers, including without limitation Taxes, incurred in connection with the transactions contemplated by this Agreement, except loan related expenses, which shall be the obligation of Buyer;

(f) Any debt, obligation or liability of Sellers under any management, consulting or employment contracts or relationships or understandings to which any of Sellers is a party or by which any of Sellers is or may be bound, arising (i) under any employee benefit plan or arrangement, or (ii) from Sellers' employment or termination, or deemed termination, of any employees or agents, including without limitation those for retirement, pension, accidents, disability, health and worker's compensation insurance or benefits, compensation for wages, whether current or deferred, accrued leave, vacation or holiday time and all other liabilities and obligations to any past, present or future

employees of Sellers, or (iii) as the result of the actual or alleged breach of or other noncompliance by Sellers with any federal, state, local or foreign law, regulation, rule, order or administrative or judicial determination of any kind or nature, including without limitation any of the foregoing relating to the environment, antitrust, trade regulation, civil rights, employment practices (singularly, "Law" and, collectively, "Laws") applicable to employees of Sellers, which liability or obligation arises or rose from any act, omission or event prior to or following the Closing by or on behalf of Sellers;

(g) Any brokerage or finder's fee payable by Sellers in connection with the transactions contemplated by this Agreement;

(h) Any obligation or liability arising out of or related to claims made before or after the Closing Date for breach of contract, personal injury, property damage or consequential damages, arising from or resulting from contracts entered into or property, products or services sold, or the condition or operation of any property or any improvements thereon, as a result of acts or omissions on the part of any Seller occurring prior to the Closing Date; and

(i) Any obligation or liability relating to any Excluded Assets or to which any Excluded Assets are subject.

1.9 Allocation of Purchase Price. The parties hereto agree that the Buyer shall prepare an allocation of the Purchase Price among the Assets in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended, and the treasury regulations thereunder (the "Allocation"). Buyer shall deliver the Allocation to Sellers for review and comment at least ten (10) days prior to the Closing Date. Buyer and Sellers agree to cooperate in good faith to resolve any dispute regarding the Allocation. The parties agree to be bound by the Allocation for purposes of determining any income, gain, loss, or deductions in respect to the Assets. The parties further agree to prepare and file all tax returns in a manner consistent with the Allocation. No party shall take any position contrary to the Allocation in any administrative or judicial proceeding; provided, however, that, if the Internal Revenue Service or any other governmental taxing authority disputes the Allocation in any judicial or administrative proceeding, any party shall have the right to settle or compromise such dispute in such manner as that party determines to be practicable, regardless of whether such settlement is contrary to the Allocation. Any settlement or compromise by one party shall not be binding on any other party.

ARTICLE II REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers represent and warrant to Buyer as follows:

2.1 Organization and Authority. Each of the Sellers is duly organized, validly existing, in good standing and authorized to conduct business under the laws of its jurisdiction of incorporation or

organization. Each of the Sellers has all requisite power and authority to own, lease and operate its assets, property and business and to carry on the business and operations related thereto as heretofore conducted. Each of the Sellers has all necessary power and, subject to the entry of the Sale Order, is duly authorized to sell, assign, and transfer the Assets to Buyer as specified in this Agreement.

2.2 Ownership of Assets. Each of the Sellers has good, valid and marketable title to all of the Assets owned by it or, in the case of leased properties included in the Assets, valid leasehold rights as lessee, free and clear of all Encumbrances, except for the Assumed Liabilities, and the Assets will be transferred to Buyer at the Closing free and clear of any and all Encumbrances, except for the Assumed Liabilities.

2.3 Authority; Binding Effect. Each of the Sellers has the requisite corporate power and authority to execute and deliver this Agreement and any other agreements, instruments and documents to be executed and delivered by it pursuant to this Agreement ("Ancillary Documents"), and to consummate the transactions contemplated hereby and thereby. Such execution, delivery and performance by each of the Sellers has been duly authorized by all requisite corporate action on the part of each of the Sellers, and, subject to the entry of the Sale Order, no other action or proceeding on the part of any Person is necessary to authorize such execution, delivery and performance and the consummation of the transactions contemplated hereby and thereby. Subject to the approval of the Bankruptcy Court by entry of the Sale Order, which the Sellers agree to diligently pursue in good faith, this Agreement is, and on the Closing Date the Ancillary Documents to which each of the Sellers is to be a party will be, a valid and binding obligation of each of the Sellers, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity.

2.4 Assumed Contracts. Schedule 1.1(h) sets forth all Assumed Contracts to be included in the Assets and to be assumed by Buyer as an Assumed Liability. Sellers have delivered or made available to Buyer true and complete copies of each such Contract which is in writing and, in the case of any such Assumed Contracts not reduced to writing, has provided to Buyer a written summary of the material terms thereof. The Assumed Contracts constitute valid and legally binding obligations of Sellers and, to Sellers' knowledge, the other parties thereto and are enforceable in accordance with their terms, except as enforceability may be restricted, limited or delayed by applicable bankruptcy or other laws affecting creditors' rights generally and except as enforceability may be subject to general principles of equity.

2.5 Real Property.

(a) The Sellers are the fee simple owners of the Real Property, as described in Exhibit A, subject only to the Permitted Exceptions as defined below.

(b) There are no other parties in possession of any portion of the Real Property other than

the Sellers.

(c) To the best of Sellers' actual knowledge, without independent investigation, there is no "Hazardous Material" (as hereinafter defined) on, under or about the Real Property. Sellers further warrant and represent that during the time in which Sellers owned or controlled the Real Property, neither Sellers nor, to the best of Sellers' knowledge, any third party has used, generated, manufactured, produced, stored, or disposed of on, under, or about the Real Property or transported to or from the Real Property any Hazardous Materials. To Sellers' knowledge, there is no proceeding or inquiry by any governmental authority with respect to the presence of Hazardous Materials on the Real Property or the migration of Hazardous Materials from or to the Real Property. To Sellers' knowledge, there are no and have not been any storage tanks located in or under the Real Property. The term "Hazardous Material" means, but is not limited to, any substance, material, or waste which is toxic, ignitable, reactive, or corrosive; which is or can be injurious to the health, safety, or welfare of the public or environment, and which is or becomes regulated by any local or state governmental authority or the United States Government which term includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance," "pollutant or contaminant," or "hazardous material," by any local or state law, (ii) oil and petroleum products and their by-products, (iii) asbestos or asbestos-containing materials, (iv) designated as a "hazardous substance" pursuant to the Federal Water Pollution Control Act, (v) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, or (vi) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act. Sellers have disclosed to Buyer in writing all information in Sellers' possession or control which relates to the environmental condition of the Real Property. During the term of this Agreement, Buyer shall have the right to make such studies and investigations as it deems appropriate to evaluate the Real Property and risks from any environmental or hazardous material and chemicals standpoint. To the extent the environmental studies show any hazardous materials affecting the Real Property or any violation of any governmental requirement pertaining to hazardous materials then either (i) Sellers shall agree in writing to remediate any Hazardous Material on the Real Property in accordance with all applicable legal requirements prior to Closing, as such Closing Date may be extended by mutual written agreement of Sellers and Buyer for such period of time as Sellers and Buyer shall agree upon in writing, or (ii) the Buyer may proceed to Closing and the Sellers shall reimburse Buyer and all directors, officers, shareholders, affiliates, members, managers, partners, employees and agents of Buyer (each, a "Buyer Indemnified Party") for all costs incurred in order to remediate the Hazardous Material. Seller hereby agrees to defend, indemnify and hold harmless, and to cause Sellers to jointly and severally defend, indemnify and hold harmless, each Buyer Indemnified Party harmless from and against all losses, damages, costs and expenses incurred by a Buyer Indemnified Party (including, without limitation, legal fees and disbursements) incurred by Buyer resulting from any environmental or other condition existing on the Real Property as of the Closing Date. The provisions of this Section shall survive the Closing.

2.6 Employees. Sellers do not have any oral or written contracts of employment with any

employee of Sellers which are not terminable at will and Sellers are not a party or subject to any collective bargaining agreements and have not been a party to or subject to any collective bargaining agreements with any labor unions during the last five (5) years. There is no pending or, to Sellers' knowledge, threatened labor strike, work stoppage or lockout against any of the Sellers or any union organizational campaigns in progress with respect to the employees of Sellers. Sellers have complied in all respects with all applicable federal, state, and local laws, ordinances, rules and regulations and requirements relating to the employment of labor, including but not limited to the provisions thereof relative to wages, hours, collective bargaining, payment of Social Security, unemployment and withholding taxes, and equal employment opportunity. Sellers are not liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing. Except as set forth on Schedule 2.6, Sellers have not entered into, and are not obligated to enter into, any agreement relating to the payment of vacation pay or severance pay to any employee and Sellers do not have any obligation to any employees to provide them with pay for vacation time, except for vacation pay payable in the ordinary course of business. Except as provided on Schedule 2.6, Sellers have not received notice from any employee of Sellers that any such employee is terminating his or her employment with Sellers.

2.7 Proceedings. Sellers do not know of any pending or threatened action, suit, proceeding or investigation before any court or governmental body or by any governmental agency to restrain or prevent the carrying out of the transactions contemplated by this Agreement or which might affect the right of Buyer to own, operate or control the Assets and the Business on or after the Closing Date except for the Mellor Bankruptcy Case, the contemplated Bankruptcy Cases and actions therein and thereunder.

2.8 Client List. Sellers represent that (i) all names and addresses of their clients related to the Business will on the Closing Date be transferred to Buyer, and (ii) Sellers have not transferred such information to their officers, directors, shareholders or any other Person.

2.9 Trade Secrets. Sellers (i) shall cooperate with Buyer in disclosing and delivering to Buyer all referral lists, analyses, reports and recommendations relating to the Business and other information of a secret or confidential nature and all records, plans and specifications, technical data, processes, secrets, research data, and other information used in the Business, (ii) shall cooperate with Buyer in connection therewith after the Closing Date in such manner as may reasonably be required by Buyer, and (iii) shall not divulge, publish or otherwise reveal to any other person, firm or corporation, or use for their own benefit, for any reason whatsoever, any of the foregoing without first obtaining the prior written consent of Buyer.

2.10 Untrue Statements and Omissions. No representation or warranty contained in Article II of this Agreement or in any Ancillary Document of Sellers contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

**ARTICLE III
REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer hereby represents and warrants to Sellers, as follows:

3.1 Organization, Standing and Authority. Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of Florida. Buyer has all requisite power and authority to own, lease and operate its assets, property and business and to carry on the business and operations related thereto as heretofore conducted.

3.2 Authority; Binding Effect. Buyer has the requisite corporate power and authority to execute and deliver this Agreement and any Ancillary Documents to be executed and delivered by it, and to consummate the transactions contemplated hereby and thereby. Such execution, delivery and performance by Buyer has been duly authorized by all requisite corporate action on the part of Buyer, and no other action or proceeding on the part of any Person is necessary to authorize such execution, delivery and performance and the consummation of the transactions contemplated hereby and thereby. This Agreement is, and the Ancillary Documents to which Buyer is to be a party on the Closing Date will be, a valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity.

3.3 No Conflict or Violation. Neither the execution, delivery and performance by Buyer of this Agreement and each of the Ancillary Documents to which it is a party, nor the consummation by Buyer of the transactions contemplated hereby or thereby, will, with or without the giving of notice or the lapse of time or both:

- (a) violate in any material respect any applicable law;
- (b) conflict with or result in a breach of or constitute or result in a default under any of the terms, conditions or provisions of (i) the articles of incorporation or bylaws of Buyer, or (ii) any order to which Buyer is subject or by which any of its assets, property or business is bound;
- (c) require any Permit or consent of any other Person; or
- (d) violate, or be in conflict with or constitute a default under, or permit the termination of any provision of or result in the acceleration of (or give the right to accelerate) the maturity or performance of any obligation of Buyer or result in the creation or imposition of any Encumbrance upon any of Buyer's assets, properties, or business under any contract to which Buyer is a party or by which Buyer's assets, property or business is bound.

3.4 The Loans. As of the date hereof, Buyer is the owner and holder of the Loans, Notes and Loan Documents.

3.5 Brokers. Neither Buyer nor any affiliate thereof nor any employee, officer or director thereof has engaged any finder or broker in connection with the transactions contemplated hereby.

3.6 Untrue Statements and Omissions. No representation or warranty contained in Article III of this Agreement or in any Ancillary Document of Buyer contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

ARTICLE IV CLOSING DELIVERIES

At the Closing, the parties shall exchange documents as follows:

4.1 Sellers shall deliver to Buyer:

(a) A Bill of Sale and Assignment (the "Bill of Sale"), duly executed by Sellers, in form and substance reasonably satisfactory to Buyer and Sellers, conveying to Buyer good and marketable title to all tangible assets which are a part of the Assets and valid title to all intangible assets which are a part of the Assets, free and clear of all Encumbrances.

(b) A special warranty deed (the "Special Warranty Deed") conveying good and marketable title to the Real Property to Buyer free and clear of all Encumbrances, except for the Permitted Exceptions, duly executed by Seller;

(c) An assignment (the "Assumed Contract Assignment"), in form and substance reasonably satisfactory to Buyer and Sellers, duly executed by Sellers conveying all of Sellers' interests in the Assumed Contracts to Buyer.

(d) An assignment (the "IP Assignment"), in form and substance reasonably satisfactory to Buyer and Sellers, duly executed by Sellers conveying all of Sellers' interests in the Identification Property Rights to Buyer.

(e) The Sale Order.

(f) Such further instruments of assignment, conveyance or transfer or other documents covering the Assets as Buyer or its attorneys may reasonably request to assure the full and effective assignment and transfer to it of the Assets and all the right, title and interest therein and to assure the effective carrying out of the transactions contemplated hereby.

4.2 Buyer shall deliver to Sellers:

- (a) Any amounts due in connection with Section 1.3(b), hereof.
- (b) The Bill of Sale, fully executed by Buyer.
- (c) The Contract Assignment and the IP Assignment, each fully executed by Buyer.
- (d) An agreement providing for the assumption by Buyer of the Assumed Liabilities, fully executed by Buyer.
- (e) Such further instruments or other documents as Sellers or their counsel may reasonably request to assure the effective carrying out of the transactions contemplated hereby.

4.3 It shall be a condition to Closing that the Bankruptcy Court shall have entered the Bid Procedures Order and the Sale Order in the Bankruptcy Case. The Bid Procedures Order shall expressly approve and authorize the bid procedures referenced in Section 1.5(b) and include a provision that if Buyer is not the successful bidder at the auction sale, then Sellers shall pay to Buyer upon (i) Bankruptcy Court approval of a bid of another entity as shall be determined by the Bankruptcy Court to be “a higher and better bid” than that of Buyer (the “Higher Auction Transaction”) and (ii) the closing of the Higher Auction Transaction, the Breakup Fee Payment and the Expense Reimbursement. Except upon a showing of fraud or intentional misconduct by Sellers, such payment shall be the sole remedy of Buyer for the failure of Sellers to complete the sale of the Assets to Buyer as a result of a Higher Auction Transaction.

4.4 All closing documents shall be in form and substance reasonably satisfactory to counsel for the respective parties.

ARTICLE V
SURVIVAL OF REPRESENTATIONS, WARRANTIES
AND AGREEMENTS; EXPENSES

5.1 Survival. All representations and warranties of Sellers and Buyer contained in this Agreement and the Ancillary Documents shall survive until the Closing Date.

5.2 Expenses.

(a) Whether or not the transactions contemplated by this Agreement are consummated, each party hereto shall pay all of such party's own fees and expenses incident to the negotiation, preparation and execution of this Agreement, including the fees and expenses of such party's own legal counsel, accountants and other advisors.

(b) The transfer of the Assets, as contemplated by this Agreement, shall be accomplished

pursuant to and in contemplation of the Sellers' plan of reorganization. As a result thereof, pursuant to Section 1146(a) of the Bankruptcy Code, the transfer of the Assets hereunder is not subject to state transfer taxes, including, without limitation, documentary stamp taxes. The parties agree to include a provision in all instruments transferring title to any Assets with restates the exemption provided by Section 1146(a) of the Bankruptcy Code. To the extent applicable, Sellers shall pay all sales or other transfer, stamp or similar taxes incurred in connection with the sale, transfer and assignment of the Assets and the Business to Buyer. Buyer shall be responsible for financing related expenses.

ARTICLE VI ADDITIONAL COVENANTS AND AGREEMENTS

6.1 Confidentiality. Buyer shall, and shall use its reasonable best efforts to cause its employees, representatives and agents to, hold in confidence, as if it were confidential information of Buyer, all Confidential Information, unless compelled to disclose such information by judicial or administrative process or, in the opinion of counsel, by other legal requirements, and Buyer shall not disclose Confidential Information to any Person, except as otherwise may be reasonably necessary to carry out the transactions contemplated by this Agreement, including any business or the diligence review by or on behalf of Buyer. If this Agreement is terminated, then upon Sellers' written request, Buyer shall within twenty (20) days return or cause to be returned to Sellers all documents and all copies thereof furnished by Sellers and held by Buyer, its representatives or agents containing such Confidential Information. Buyer recognizes that any breach of this Section 6.1 would result in irreparable harm to Sellers and that therefore Sellers shall be entitled to an injunction to prohibit any such breach or anticipated breach, without the necessity of posting a bond, cash or otherwise, in addition to all of their other legal and equitable remedies. "Confidential Information" means all information of any kind concerning the Business, obtained directly or indirectly from Sellers in connection with the transactions contemplated by this Agreement except information (a) ascertainable or obtained from public or published information, (b) received from a third party not known by Buyer to be under an obligation to Sellers to keep such information confidential, (c) which is or becomes known to the public (other than through a breach of this Agreement), or (d) which was in Buyer's possession prior to disclosure thereof to Buyer in connection herewith.

6.2 Post-Closing Access to Information. Sellers and Buyer acknowledge that subsequent to Closing each party may need access to information or documents in the control or possession of the other party for the purposes of concluding the transactions herein contemplated, audits, compliance with governmental requirements and regulations, the prosecution or defense of third-party claims, and matters in the Bankruptcy Cases. Accordingly, Sellers and Buyer agree that until the later of the second anniversary of the Closing Date or the expiration of any applicable statute of limitations pertaining to any tax matters, to the extent permitted by Law each shall make reasonably available to the other's agents, independent auditors and/or governmental agencies upon written request and at the expense of the requesting party such documents and information as may be available relating to the Assets for periods prior and subsequent to Closing to the extent necessary to facilitate concluding the transactions herein contemplated, audits, compliance with governmental requirements and

regulations, the prosecution or defense of claims, and matters in the Bankruptcy Cases.

6.3 Further Assurances. From time to time after Closing, Sellers shall execute and deliver such other instruments of conveyance and transfer, and take such other actions as Buyer reasonably may request, to convey and transfer more effectively full right, title and interest to, vest in, and place Buyer in legal and actual possession of, any and all of the Assets.

6.4 Employees. As of the Closing, Sellers shall terminate all of their employees and Buyer may offer employment commencing as of the Closing to substantially all of the employees at levels of compensation, benefits and seniority at Buyer's sole and absolute discretion.

6.5 Survey. Buyer may, prior to the Closing, obtain one more more current surveys (the "Surveys") of the Real Property prepared by a registered surveyor certified to Buyer and Title Company. The Survey(s), if applicable, shall be in form suitable to Buyer and Title Company and shall (a) locate all present and future easements, rights-of-way, one hundred (100)-year flood plain, roadways and encroachments on or abutting the Land, (b) contain an accurate description of the Real Property, (c) show the location of all title exceptions shown in the "Commitment" (as hereinafter defined), and (d) contain the certification of the surveyor. Buyer may instead update any survey or surveys which Seller had prepared.

6.6 Title. Buyer shall, at Buyer's sole expense and within ten (10) days of the Effective Date, order a title commitment (the "Commitment") to issue an owner's policy in an amount not less than the amount allocated to the Real Property under the purchase price allocation under Article 1.9 above insuring Buyer's title to the Real Property issued by a title insurance company selected by Buyer ("Title Company") agreeing to provide, on the current ALTA marketability policy form, an owners' title insurance policy ("Title Policy") which shall show insurable fee simple title to the Real Property to be vested in Sellers and shall name Buyer as the proposed insured. Buyer shall pay the costs of the Commitment and of the Title Policy including any title examination or investigation fees and the costs for the premium for the Title Policy to be issued pursuant to the Commitment. Buyer shall be entitled to make objections to title if (i) the form of the Commitment is other than as described in this paragraph, or (ii) the Commitment reveals any exceptions to title (other than the lien of taxes not yet due and payable) that are not subject to a sale free and clear of all liens, claims and encumbrances under Section 363 of the Bankruptcy Code or are not acceptable to Buyer in its sole discretion. Buyer shall notify Sellers of any title objections by facsimile or mail within ten (10) days of receipt of the Commitment and Sellers shall have fifteen (15) days after the receipt of Buyer's objections within which to resolve Buyer's title objections. Notwithstanding anything contained in this Agreement to the contrary, in the event Sellers are unable to satisfy Buyer's objections within said time period and so notifies Buyer in writing, Buyer may elect to cancel this Agreement, or Buyer may waive in writing its title objections and accept the condition of title. Title exceptions (exclusive of any liens claims and encumbrances that are subject to Section 363 of the Bankruptcy Code or, if not subject to Section 363 of the Bankruptcy Code which Seller agrees to satisfy on or before Closing) approved or accepted in writing by Buyer shall hereinafter be referred to as "Permitted Exceptions".

6.7 Property and Casualty Insurance. Seller shall maintain until and including the Closing Date, property, casualty and liability insurance with reputable insurers with coverages in the amount of or in excess of those coverages currently in place as of the date of execution of this Agreement. Sellers shall provide Buyer with proof of such insurance at any time within twenty-four hours of written demand.

6.8 Sales Taxes. Sellers shall pay any and all sales taxes due and owing to the Florida Department of Revenue through the Closing Date.

6.9 Maintenance of Real and Personal Property. Sellers shall maintain the Real and Personal Property in good order, reasonable wear and tear excepted.

6.10 Cash Collateral in the Bankruptcy Cases. Sellers shall file with the Bankruptcy Court, no later than three (3) Business Days subsequent to commencing their Bankruptcy Cases, the Colonial Debtors' Emergency Motion for Authority to Use Cash Collateral pursuant to 11 U.S.C. §§ 105, 361, 363, and 541 and Rule 4001 of the Federal Rules of Bankruptcy Procedure and for Authority to Obtain Postpetition Financing and Grant Senior Liens, Superpriority Administrative Expense Status and Adequate Protection Pursuant to 11 U.S.C. §§ 364(c) and (d) and F.R.B.P. 4001 (the "Motion to Use Cash Collateral and to Obtain DIP Financing"). Buyer agrees not to oppose the Motion to Use Cash Collateral and to Obtain DIP Financing subject to the order approving said motion containing terms providing for Buyer's review of Sellers' monthly budgets in connection with same.

ARTICLE VII TERMINATION

7.1 Termination. Notwithstanding anything herein to the contrary, this Agreement may be terminated:

- (a) on or prior to the Closing Date by mutual consent of Buyer and Sellers;
- (b) by Buyer if by the Closing Date, any of the conditions specified in Article IV of this Agreement to Buyer's obligation to close has not been satisfied and shall not have been waived by Buyer;
- (c) by Sellers if by the Closing Date, any of the conditions specified in Article IV of this Agreement to Sellers' obligation to close has not been satisfied and shall not have been waived by Sellers;
- (d) by Sellers, if Sellers accept and the Bankruptcy Court approves a Higher Auction Transaction, in which case the Breakup Fee Payment and the Expense Reimbursement shall be due from Seller to Buyer;

(e) by Buyer should any individual or legal entity other than Mellor own a majority of the shares of the Sellers or be in a position to exercise control of the Sellers;

(f) by Buyer should Sellers fail to commence the Bankruptcy Cases or file the subject motions as contemplated herein in Sections 1.5 and 6.10 within the dates and times required therein.

Termination of this Agreement by a party shall not preclude the terminating party from seeking remedies related to the breach of a representation, warranty or covenant contained in this Agreement. In the event that this Agreement is terminated by Buyer for reasons other than as permitted under subparagraph (a), (b), (e) or (f) of this Section 7.1, or if no Closing occurs due to Buyer's breach of this Agreement, then Sellers shall be paid ten thousand dollars (\$10,000) as liquidated damages and no party shall have any further rights or obligations hereunder.

ARTICLE VIII MISCELLANEOUS

8.1 Publicity. Except as may otherwise be required by law or in connection with the Bankruptcy Case, no publicity, release or announcement concerning this Agreement or the transactions contemplated hereby shall be made without advance written approval thereof by the parties hereto.

8.2 Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally, telegraphed, telexed, sent by facsimile transmission (provided acknowledgment or receipt thereof is delivered to the sender) or sent by certified, registered or express mail, postage prepaid. Any such notice shall be deemed given when so delivered personally, telegraphed, telexed or sent by facsimile transmission or, if mailed, three days after the date of deposit in the United States mails as follows:

If to Sellers:

Colonial Construction Company, Inc.
Attn: Victor G. Mellor
1811 Englewood Road, STE 300
Englewood, Florida 34223
Facsimile No.: (941) 698-8888

With a copy to:

Stephen R. Leslie, Esq.
B. Michael Bachman, Jr., Esquire
Stichter, Riedel, Blain & Prosser, P.A.
110 East Madison Street, Suite 200

Tampa, Florida 33602
Facsimile No.: 813/229-1811

If to Buyer:

Bon Eau Enterprises, LLC
Attn: Randall Bono, Manager
1343 Main Street, Suite 700
Sarasota, Florida 34230
Facsimile No.: (941) 364-4450

With a copy to:

Glenn Rasmussen Fogarty & Hooker, P.A.
100 S. Ashley Drive, Suite 1300
Tampa, Florida 33602
Attn: Gregory M. McCoskey
Fax No. (813) 229-5946

or such other address as any of the above shall have specified by notice hereunder.

8.3 Amendment; Extension; and Waiver.

(a) This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

(b) At any time on or prior to the Closing Date, any party hereto may (i) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (ii) waive any inaccuracies in the representations and warranties of the other parties hereto contained herein or in any document delivered pursuant hereto, and (iii) waive compliance by the other parties hereto with any of the agreements or conditions contained herein or in any Ancillary Document. Any agreement on the part of a party hereto in any such extension or waiver shall be valid if set forth in any instrument in writing signed on behalf of such party. No action taken pursuant to this Agreement, including any investigation by or on behalf of any party hereto, shall be deemed to constitute a waiver by the party taking such action of compliance with any agreement or condition contained herein or in any Ancillary Document. The waiver by any party hereto of any condition or of a breach of any other provision of this Agreement or any Ancillary Document shall not operate or be construed as a waiver of any other condition or any other provision or subsequent breach. The waiver by any party of any of the conditions precedent to its obligations under this Agreement shall not preclude it from seeking redress for breach of this Agreement other than with respect to the condition so waived. All rights and remedies of any party to this Agreement shall be cumulative and concurrent and may be exercised singularly, successively or concurrently, at the sole discretion of

such party and may be exercised as often as occasion therefor may exist.

8.4 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to the principles of conflicts of laws thereof. The parties acknowledge and agree that the Bankruptcy Court shall have exclusive jurisdiction to hear and determine any claims or disputes between the parties hereto or any of Sellers' creditors or other parties in interest in the Bankruptcy Case affected hereby pertaining directly or indirectly to this Agreement or to any matter arising herefrom or related hereto; provided, however, that if the Bankruptcy Court determines that it lacks or abstains from exercising such jurisdiction the parties or creditors agree that the United States District Court for the Middle District of Florida, Ft. Myers Division, shall have exclusive jurisdiction. Each party hereby submits and consents in advance to such jurisdiction and venue in any action or proceeding either commenced by, or brought against any such party, in such court, hereby waiving personal service of the summons and complaint, or other service of process or papers issued therein, and agreeing that service of such summons and complaint or other process or papers may be made by registered mail or certified mail, return receipt requested, addressed to such party at the address to which notices are to be sent or delivered pursuant to Section 8.2 hereof.

8.5 Binding Effect; Assignment. Subject to the approval of the Bankruptcy Court, which the parties agree in good faith to diligently pursue, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns and legal representatives. This Agreement, or any rights under it or the Sale Order contemplated by this Agreement, shall be fully and freely assignable by Buyer.

8.6 Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws. If any provision of this Agreement or the application thereto to any Person or circumstances shall, for any reason and to any extent, be valid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

8.7 No Third Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to give any Person other than the parties hereto and, in the event of the inability of any party hereto fully to exercise such rights, the respective shareholders of each such party, any legal or equitable right, remedy or claim under or in respect of this Agreement or the Ancillary Documents or any provision contained herein.

8.8 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto. A facsimile signature shall be considered the same as an original signature for purposes of execution of this Agreement.

8.9 Exhibits and Schedules. The Exhibits and the Schedules to this Agreement are a part of this Agreement as if fully set forth herein.

8.10 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

8.11 Actions by Affiliates. To the extent that this Agreement requires action to be taken by affiliates of any party hereto, the applicable party shall cause such action to be taken.

8.12 Prevailing Party. In connection with any action arising out of this Agreement or the transactions contemplated hereby, the substantially prevailing party in any such action shall be entitled to receive from the other party all costs and expenses (including reasonable attorneys' fees) incurred by the substantially prevailing party in connection therewith, in addition to any other award made by the court in which such action is brought.

8.13 Entire Agreement. This Agreement supersedes all previous contracts and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties representing the within subject matter and no party shall be entitled to benefits other than those specified herein. As between or among the parties, no oral statement or prior written material not specifically incorporated herein shall be of any force and effect. The parties specifically acknowledge that in entering into and executing this Agreement, the parties rely solely upon the representations and agreements contained in this Agreement and no others. All prior representations or agreements, whether written or verbal, not expressly incorporated herein are superseded hereby.

8.14 Drafting. No provision of this Agreement shall be interpreted for or against either party hereto on the basis that such party was the draftsman of such provision, both parties having participated equally in the drafting hereof, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

8.15 Rules of Construction.

(a) In this Agreement, unless the context otherwise requires, words in the singular number or in the plural number shall each include the singular number, and words of the masculine gender shall include the feminine and the neuter, and, when the sense so indicates, words of the neuter gender may refer to any gender.

(b) The term "Person" shall mean an individual, corporation, a partnership, an association, a trust or any other entity or organization, including a governmental or political subdivision or any agency or instrumentality thereof.

(c) All references herein to dollar amounts are in United States dollars and all references

herein to generally accepted accounting principles are to those in effect in the United States as of the date hereof.

(d) The terms "herein", "hereunder" and similar terms refer to this Agreement generally and not to any one Article or Section.

(e) Any representations and warranties set forth herein containing the phrase "to the knowledge" shall mean, include and refer to such knowledge as may be possessed by the respective directors and officers (either singly or collectively) of the party to whom such phrase relates.

(f) All provisions in this Agreement requiring any party hereto to use its best efforts, to cooperate with the other parties hereto, and to take such action as may be reasonably necessary to achieve a particular result shall not be construed to require such party to expend or agree to expend any funds, or to agree to any increase in amounts otherwise payable by such party pursuant to any contractual obligations or applicable law, except as otherwise specified in this Agreement.

(g) The term "Business Day" shall mean any day other than a Saturday, Sunday or other day on which banks in the State of Florida are required or permitted by law to close.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been signed by an officer of each of the parties on the date first above written.

WITNESSES:

John Hallum
Print Name: JOHN HALLUM
[Signature]
Print Name: MICHAEL BUCKLEY

John Hallum
Print Name: JOHN HALLUM
[Signature]
Print Name: MICHAEL BUCKLEY

John Hallum
Print Name: JOHN HALLUM
[Signature]
Print Name: MICHAEL BUCKLEY

SELLERS:

COLONIAL CONSTRUCTION COMPANY,
INC., a Florida corporation
By: [Signature]
Print Name: Victor Mellar
As Its: President

COLONIAL READY MIX, LLC,
a Florida limited liability company
By: [Signature]
Print Name: Victor Mellar
As Its: Managing member

CCC TRUCKING, LLC,
a Florida limited liability company
By: [Signature]
Print Name: Victor Mellar
As Its: Managing member

Susan K. Flynn
Print Name: SUSAN K. FLYNN

Randy Whitmer
Print Name: Randy Whitmer

BUYER:

BON EAU ENTERPRISES, LLC
a Florida limited liability company

Randall A Bow
By: Randall A Bow
Print Name: Randall A BOW
As Its: Manager

Exhibit "A"

The Loan Documents

Exhibit "B"

The Real Property

5200 Linwood Road, Placida, Florida 33946

LBG 001 0000 0015

LEMON BAY GROVES 10A UNIT 1 TRACT 15 621/123 642/91E640/147 643/414 681/379
E695/1402CERT812/1005 1664/1784 CERT1774/618 2494/1404 2877/728

5250 Linwood Road, Placida, Florida 33946

LBG 001 0000 0016

LEMON BAY GROVES NO. 2 SEC1 LT16 2939/1857

5231 Woodfield Road, Placida, Florida 33946

LBG 002 0000 0020

LEMON BAY GROVES 5A UNIT 2 TRACT 20 405/131 473/89 687/567 890/1079892/549
1819/9121867/678 E2275/856

9301 Gasparilla Road, Placida, Florida 33946

ZZZ 204121 P7-2

20 41 21 P-7-2 2.273A M/L A STRIP OF LAND BEING 150FT WIDE BY 660.07 FT LONG
ADJ TO SR 771 BETWEEN LINWOOD RD AND WOODFIELD RD 1186/706 1469/1392-
ORDNCE 1471/41 1487/38CD 2589/4412941/2

INDEX TO SCHEDULES

<u>Schedule 1.1(c)</u>	—	Fixed Assets
<u>Schedule 1.1(h)</u>	—	Assumed Contracts
<u>Schedule 1.7</u>	—	Assumed Liabilities
<u>Schedule 2.6</u>	—	Employee Matters

SCHEDULE 1.1(c)

Fixed Assets

See attached listing

SCHEDULE 1.1(h)

Assumed Contracts

See attached listing

SCHEDULE 1.7

Assumed Liabilities

See attached

SCHEDULE 2.6

Employee Matters

None

Exhibit "A"

The Loan Documents

EXHIBIT A

Index of Loan Documents Between M&I MARSHALL AND ILSLEY BANK, a Wisconsin state banking corporation (the "Bank") and COLONIAL CONSTRUCTION COMPANY, INC. ("Borrower")

Tab	Document Date	Description
1.	8/23/08	Copy of Promissory Note executed by Borrower in favor of the Bank in the original amount of \$1,000,000.
2.	12/22/05	Copy of Consolidated Promissory Note executed by the Borrower in favor of the Bank in the original amount of \$583,428.00.
3.	3/6/06	Copy of Promissory Note executed by the Borrower in favor of the Bank in the original amount of \$1,300,000.
4.	3/14/09	Copy of Promissory Note executed by the Borrower in favor of the Bank in the original amount of \$495,385.42
5.	2/27/03	Copy of Promissory Note executed by the Borrower in favor of the Bank in the original amount of \$157,000.
6.	3/12/07	Copy of Amendment to Loan Agreement between the Bank and the Borrower.
7.	4/6/06	Copy of the Loan Agreement between the Bank and the Borrower.
8.	12/14/07	Copy of a Loan Agreement executed by the Borrower in favor of the Bank.
9.	4/6/06	Copy of the Mortgage Deed and Security Agreement executed by the Borrower in favor of the Bank recorded in Official Records Book 2942, beginning at page 2040, of the public records of Charlotte County, Florida.
10.	2/27/03	Copy of a Mortgage executed by the Borrower in favor of the Bank recorded March 3, 2003 in Official Records Book 2180, beginning at page 292, of the public records Charlotte County, Florida.
11.	3/6/06	Copy of a Mortgage Deed and Security Agreement executed by the Borrower in favor of the Bank recorded April 4, 2006 in Official Records Book 2939, beginning at page 1858, of the public records of Charlotte County, Florida.
12.	12/14/07	Copy of a Mortgage Deed and Security Agreement executed by the Borrower in favor of the Bank recorded December 18, 2007 in Official Records Book 3242, beginning at page 1113, of the public records of Charlotte County, Florida.
13.	3/12/07	Copy of the Notice of Future Advance and Receipt executed by the Borrower in favor of the Bank recorded in Official Records Book 3128, beginning at page 404, of the public records of Charlotte County, Florida.
14.	12/22/05	Copy of the Notice of Future Advance and Receipt executed by the Borrower in favor of the Bank recorded December 28, 2005, in Official records Book 2877, beginning at page 736, of the public records of Charlotte County, Florida.
15.	12/22/05	Copy of a Mortgage Modification and Spreader Agreement executed by the Borrower in favor of the Bank recorded December 28, 2005 in Official Records Book 2877, beginning at page 733, of the public records of Charlotte County, Florida.
16.	4/6/06	Copy of a Security Agreement executed by Borrower in favor of the Bank.
17.	4/14/06	Copy of a UCC-1 Financing Statement executed by Borrower in favor of the Bank recorded in the Florida Secured Transaction Registry at Document #200602380594 on April 14, 2006.

	Tab	Document Date	Description
	18.		Copy of a UCC-1 Financing Statement executed by the Borrower in favor of the Bank recorded in Official Records Book 2942, beginning at page 2058, Public Records of Charlotte County, Florida.
	19.	3/3/05	Copy of a UCC-1 Financing Statement executed by the Borrower in favor of the Bank recorded in the Florida Secured Transaction Registry at Document #200303383338.
	20.		Copy of a UCC-1 Financing Statement executed by the Borrower in favor of the Bank recorded in Official Records Book 2180, beginning at page 299, in the public records of Charlotte County, Florida.
	21.	4/14/06	Copy of a UCC-1 Financing Statement executed by the Borrower in favor of the Bank recorded in the Florida Secured Transaction Registry at Document #200602380594.
	22.		Copy of a UCC-1 Financing Statement executed by the Borrower in favor of the Bank recorded in Official Records Book 2939, beginning at page 1880, in the public records of Charlotte County, Florida.
	23.	12/20/07	Copy of a UCC-1 Financing Statement executed by the Borrower in favor of the Bank recorded in the Florida Secured Transaction Registry at Document #200707262907.
	24.		Copy of a UCC-1 Financing Statement executed by the Borrower in favor of the Bank recorded in Official Records Book 3242, beginning at page 1131, in the public records of Charlotte County, Florida.
	25.	4/6/06	Copy of an Assignment of Leases, Contracts, Deposits, Rents and Profits executed by the Borrower in favor of the Bank recorded on April 10, 2006, in Official Records Book 2942, beginning at page 2054, of the public records of Charlotte County, Florida.
	26.	3/6/06	Copy of an Assignment of Leases, Contracts, Deposits, Rents and Profits executed by the Borrower in favor of the Bank recorded on April 4, 2006, in Official Records Book 2939, beginning at page 1872, of the public record of Charlotte County, Florida.
	27.	12/14/07	Copy of an Assignment of Leases, Contracts, Deposits, Rents and Profits executed by the Borrower in favor of the Bank recorded on December 18, 2007, in Official Records Book 3242, beginning at page 1127, of the public record of Charlotte County, Florida.
	28.	12/22/05	Copies of Continuing Unlimited Guarantees executed by Victor Mellor and Elizabeth Mellor.
	29.	1/6/09	Copies of Continuing Unlimited Guarantees executed by Victor Mellor and Elizabeth Amy Mellor.
	30.	2/27/03	Copy of a Guaranty executed by Victor Mellor.
	31.		Copies of Continuing Unlimited Guarantees executed by Victor Mellor and Elizabeth Amy Mellor.
	32.	3/6/06	Copies of Continuing Unlimited Guarantees executed by Victor Mellor and Elizabeth Amy Mellor.
	33.	12/14/07	Copies of Continuing Unlimited Guarantees executed by Victor Mellor and Elizabeth Amy Mellor.
	34.	2/27/03	Copy of a Guaranty executed by Elizabeth Amy Mellor.

Assignor

Assignee

Exhibit "B"

The Real Property

5200 Linwood Road, Placida, Florida 33946

LBG 001 0000 0015

LEMON BAY GROVES 10A UNIT 1 TRACT 15 621/123 642/91E640/147 643/414 681/379
E695/1402CERT812/1005 1664/1784 CERT1774/618 2494/1404 2877/728

5250 Linwood Road, Placida, Florida 33946

LBG 001 0000 0016

LEMON BAY GROVES NO. 2 SEC1 LT16 2939/1857

5231 Woodfield Road, Placida, Florida 33946

LBG 002 0000 0020

LEMON BAY GROVES 5A UNIT 2 TRACT 20 405/131 473/89 687/567 890/1079892/549
1819/9121867/678 E2275/856

9301 Gasparilla Road, Placida, Florida 33946

ZZZ 204121 P7-2

20 41 21 P-7-2 2.273A M/L A STRIP OF LAND BEING 150FT WIDE BY 660.07 FT LONG
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<u>Schedule 1.7</u>	—	Assumed Liabilities
<u>Schedule 2.6</u>	—	Employee Matters

SCHEDULE 1.1(c)

Fixed Assets

See attached listing

**Colonial Construction
Fixed Assets**

Fixed Assets

Land

Parcel ID no	Property Address	Certified Taxable Value
412120351001	5250 LINWOOD RD	\$ 931,105.00
412120351002	5300 LINWOOD RD	\$ 259,182.00
412119477003	5200 LINWOOD RD	\$ 312,529.00
412119427004	5231 WOODFIELD RD	\$ 259,182.00
412120351003	9301 GASPARILLA RD	\$ 387,137.00

Small Trucks

Description	VIN# S/N	Lender	Owner		
FORD/06 YARD TRUCK	1FDWVF36536EA61489	Ford Credit	COLONIAL	\$	5,884.36
CHEV/08	1GCCS199X88140780	GMAC	COLONIAL	\$	11,561.58
CHEV/09 MARK SHADT	1GCEC14X49Z122184	GMAC	COLONIAL	\$	18,146.23
CHEV/09 WARREN CHANDLER	1GCEC14X39Z220378	GMAC	COLONIAL	\$	19,666.21
FORD/06 JOSE VAZQUEZ	1FTRF12WX6NA14531	Paid off	COLONIAL	\$	6,000.00
FORD/06 JOVANNI CEDENO	1FTRW12W56FB25210	Paid off	COLONIAL	\$	6,000.00
CHEV/04 GARY BARNTHOUSE	1FTNW20L24EC61827	Paid off	COLONIAL	\$	5,000.00
FORD/06	1FTRF12WX6NA14531	Paid off	COLONIAL	\$	6,000.00

Hollowcore Equipment

Description	VIN# S/N	Lender	Owner	Appraised Value
2006 Extruder EL900E 8"	SN:TL26040-435 NOZZLE	GECC	COLONIAL	\$ 50,000.00
2006 Extruder EL900E 8"	SN:TL26040-435	GECC	COLONIAL	\$ 50,000.00
2006 Extruder EL606 8"	SN:TL26007475	Paid off	COLONIAL	\$ 50,000.00
2006 Extruder 10"			COLONIAL	\$ 50,000.00
DURA MIXER BROOM	MODEL 575	SN:MXM-100	COLONIAL	\$ 24,000.00

Description	Qty	Appraised Value - each	Appraised Value TOTAL
Cross Cut Bed Saw	3	\$ 25,000.00	\$ 75,000.00
RIP Bed Saw	1	\$ 25,000.00	\$ 25,000.00
Hercules Stress Jack	1	\$ 5,000.00	\$ 5,000.00
Power Team Stress Jack	3	\$ 2,000.00	\$ 6,000.00
Cylinder Breaker	2	\$ 2,000.00	\$ 4,000.00

Other Equipment

Description	VIN# S/N	Lender	Owner	Appraised Value
2005 JCB Model 532 Loadall	SN:SLP532GA5E1153332	Paid off	COLONIAL	\$ 20,000.00
John Deere Loader	SN:SLP532GA4E1064674	Paul Bigness	COLONIAL	\$ 45,000.00
TAYLOR FORKLIFT 1 MODEL THD-360L	SN:S-T6-27307		COLONIAL	\$ 33,000.00
EAVES FORKLIFT 2 MODEL E-355	SN:CE140490019612		COLONIAL	\$ 35,000.00
TAYLOR FORKLIFT 3 MODEL TE-300	SN:S-H6-18791		COLONIAL	\$ 31,000.00
LULL FORKLIFT MODEL 844-C	SN:99W20P22-2221		COLONIAL	\$ 18,000.00
WHITE SQUARE SHOOTER MODEL SS-842	SN:99-2026		COLONIAL	\$ 15,000.00
04 MUNCHERS	7055116(MC70)		COLONIAL	\$ 3,000.00

Other Fixed Assets

Description	Qty	Appraised Value - each	Appraised Value TOTAL
Septic Tank Form	12	5000	\$ 60,000.00
Stair Form	7	5000	\$ 35,000.00
WATER Trailer	1	8000	\$ 8,000.00

Misc. Fixed Assets - Liquidation Value

Manufacturer	Model	Serial Number	Liquidation Value
BONNEY BROOK CASTING BEDS	7300'	NO SN AVAILABLE	\$ 600,000.00
WET CASTING BEDS	470'	NO SN AVAILABLE	\$ 75,000.00
PILING FORMS, 2 EACH	\$30,000.00 EACH	NO SN AVAILABLE	\$ 60,000.00

**Colonial Construction
Inventory List**

'Sum of Quantity'	General Description
7	AC,
1	AC_Servicing
19	AVAYA_phone,
1	AVAYA_phone_central
1	Access_point,
1	Air_jack_hammer,
1	Airless_spray
3	Banner,
1	Bench,
1	Bender
1	Boo8485,
16	Books,shelves_24"_full
2	Break_Machine,
5	Cabinets,
2	Camera_system,_Keypro_PIH800II_with_DVR,
36	Chair,
1	Cleaning_Brush_Machine,
1	Coffee_Maker,
8	Compressor,
7	Container,
1	Copy_Machine_Lanier
1	Crimp_Machine
2	Cubicle_partition
18	Desk,
41	Drawers,
20	Drill,
1	FAX
5	Fan,
2	Fixtures,
1	Floor_Jack,
60	Forms,
3	Generator,
11	Grinder,
1	Hammer,
1	Heater,
1	Hoist,_Engine
1	Humboldt_sieve_machine,
1	Hydrolic_Press,
1	Ice_Machine,
1	Jack_stand,
18	Keyboard,
9	Ladder,
1	Laptop
1	Lawn_Mower,
6	Lifting_tongs,
3	Microwave,

**Colonial Construction
Inventory List**

8	Mixer_shoots,
20	Monitor,
1	Neopost_mail
1	Oven,
1	Picture,
7	PlanRack,
4	Plants,
1	Pool/fountain,
1	Preasure_washer,
9	Printer,
2	Printer,_plotter
1	Printer/FAX,
11	Propane_bottles,
3	Refrigerator,
1	RoIAir
2	Router,
1	Safe,
16	Saw,
2	Scale,
1	Server,_HP_Proliant_DL360G5
16	Shelves,
2	Shredder,
1	Solair
5	Speakers,
11	Steel_Coils,
3	Stress,_Machine,
25	Surge_Protector,
5	Switch,
20	Table,
16	Tank_oil&fuel,
1	Teller_Scan
1	Thermal_Dynamics
39	Tires,
12	Toolbox,
2	Tourches,
1	Trowel,_gass_powered,
2	Truck,
2	Tub,
2	Vacuum,
4	Vibrator,
2	Water_Cooler,
1	Water_Softener
6	Welder,
5	WhiteBoard,
2	Work_Clock,
19	Workstation_PC,

SCHEDULE 1.1(h)

Assumed Contracts

See attached listing

Job #	GC	Project Description	Contract Value	Start Dates	Project End Date	TOTAL BILLED TO-DATE	Owner	Contact	PH #	Balance
		WORK IN PROGRESS								
		WORK IN PROGRESS								
1233	BCBE	Cruise Terminal #8	\$ 62,000.00	8/6/10		\$ 56,000.00		Andrew Weaten	239-643-3343	\$ 5,600.00
77920	Davidson & Jones	Hyatt Place Raleigh NC	\$ 566,240.00	11/15/10		\$ 145,523.68	HJH ASSO	Chris Hale	919-719-7703	\$ 145,523.68
42059	Paul Sierra Const	Patrician Arms Phase II	\$ 195,040.00	11/29/10		\$ 68,476.00	St Patrick Housing Corp	Jim Conlin/Rick Brown	813-228-6661	\$ 68,476.00
		McGlade Res	\$ 23,963.00	9/30/10		\$ 23,963.00		Keith Reiman	239-642-3364	\$ 23,963.00
			\$ 848,243.00							\$ 243,562.68
		PENDING								
	KMK	Bowman	\$ 55,000.00							
5835	Charles Rinek Const	Bush Res	\$ 20,686.00					Charles Rinek	386-446-5850	
3447	RK Reiman	Green Res	\$ 20,280.55					Keith Reiman	239-642-3354	
39186	Brooks & Freund	Sunrise Park Apart	\$ 181,000.00					Jack Lamme	239-939-5251	
112912	Winter Park Const	Sonata @ Melbourne	\$ 482,560.00					Paul Caruana	407-644-8923	
590	Gibbs Const	Chalmette High School	\$ 13,740.00					Phillip Godbold	504-733-4336	
27570	Advance Masonry System	Lynch ele school 1.5.6	\$ 143,260.00					Terry Blunk	941-926-3155 x230	
903	Ken Dear	Catholic Cemetery	\$ 7,351.00					Ken Dear	941-755-1200	
3875	Skyilar Const	Simmelink	\$ 20,590.00							
	Wharton-Smitg	Marathon Area #5 WTP	\$ 21,000.00					Phillip Mintzer	772-283-2944	
8794	Anthony Fiore	Petrie Res	\$ 58,552.00					Anthony Fiore	941-474-2421	
8524	Schmid Const	First Green Bank	\$ 55,000.00					Josh Jeppensen	352-243-3720	
8050	Tandem	Janie's Garden B-M2	\$ 47,582.00				Janie Poe Asso	Jennifer Butler Smart	941-954-1599	
6326	Tandem	Janie's Garden B-M1	\$ 38,158.00				Janie Poe Asso	Jennifer Butler Smart	941-954-1599	
	Pulte	Sub division Multi Homes	\$ 250,000.00							
	Carr & Sons	Henrigtquez	\$ 15,500.00							
	Layca Const	Pizza Del Marco	\$ 26,247.00							
52962	Woodrow Wilson Const	New Live High School	\$ 301,000.00					Wesley Grifford	225-926-3000	
21385	Perry Const	Waveland Police Station	\$ 162,596.00					Tom Coggins	601-758-3136	
8006	GM & R Const	Waveland Fire Station	\$ 60,792.00					Hank Martinez	228-467-0229	
17295	SMS Corp/SRS Inc	Summerfield Ele School	\$ 124,921.00				Guilford County Board of Ed	Johnny Siger	336-944-3012	
	Benchmark	Rothstein Res 2010	\$ 32,781.10					Jeff Good	239-466-1590	
			\$ 2,083,566.65							
		Finished waiting for final payments								
	Johnson & Gaylon	Ball Camp	\$ 68,197.00					Ellen Fowler	865-688-1111	\$ 7,000.00
	Wharton-Smith	Wellington	\$ 37,393.50					Scott Dessingue	772-283-2944	\$ 37,393.50
	Bay Electric	Springhill Suites Marriott LA	\$ 337,346.00	6/28/10	8/4/10	\$ 191,173.98	Village of Wellington	Mark Kuebler	423-238-2053	\$ 90,289.42
	GEG Braswell	Poinciana Royal	\$ 285,265.50	8/4/10	11/25/10	\$ 285,265.50				\$ 159,541.30
	B C B E	Cioffi Res	\$ 21,135.00	9/27/10	9/27/10	\$ 21,135.00		Brian Mayotte	239-643-3343	\$ 1,956.60
	Auto Builders	Tampa Cadillac Car Wash	\$ 9,962.00	7/16/10	7/16/10	\$ 9,962.00		Tom Lusk	561-622-3515	\$ 1,258.70
	Brandes Design-Built	Central Pasco Water System	\$ 59,998.71	7/28/10	7/28/10	\$ 59,998.71	Pasco County Board	Corky	727-445-7544	\$ 5,999.00
	Boran Craig Barber Engel	FT. Myers Housing Authority 20	\$ 44,000.00	12/11/09	1/14/10	\$ 44,000.00	Housing Authority	Sheri Duncan	239-593-3777	\$ 4,400.00
	Redline	St Giles	\$ 76,952.19	6/9/10	7/1/10	\$ 76,952.19				\$ 7,193.07
	Commanche Contractors	Fairfield Inn Tx	\$ 487,939.00	9/2/09	10/30/09	\$487,939.02		Bill Winkler	281-961-0876	\$ 48,793.92
	Benchmark	Acherman Res	\$ 25,381.00					Jeff Good	239-466-1590	\$ 3,197.50
	Benchmark	Dalton Res	\$ 15,884.00					Jeff Good	239-466-1590	\$ 1,589.84
	Benchmark	Reynolds	\$ 24,482.00	10/1/10	10/1/10	\$ 24,482.00	Elton O & Eleanor Dalton John & Joyce Reynolds	Jeff Good	239-466-1590	\$ 24,482.00

SCHEDULE 1.7

Assumed Liabilities

See attached

SCHEDULE 2.6

Employee Matters

None

EXHIBIT "B"
BIDDING PROCEDURES

BIDDING PROCEDURES

The following procedures (the “**Bid Procedures**”) have been approved and authorized by the United States Bankruptcy Court for the Middle District of Florida, Fort Myers Division (the “**Bankruptcy Court**”) in the jointly administered bankruptcy cases styled *In re Victor G. Mellor, In re Colonial Construction Company, Inc., In re Ready Mix Concrete, LLC, and In re CCC Trucking, LLC*, jointly administered under Case No. 9:10-20398-DHA, and shall govern the auction conducted by Debtors (i) Colonial Construction Company, Inc., (ii) Ready Mix Concrete, LLC, and (iii) CCC Trucking, LLC, (the “**Debtors**” or “**Sellers**”) of the Debtors’ property (the “**Property**”) as defined in and pursuant to the terms of the Asset Purchase Agreement (the “**APA**”) which will be utilized in connection with the Auction, as defined below, and sale of the Property (the “**Sale**”). A copy of the APA can be obtained by contacting Stephen R. Leslie, Esq. at Stichter Riedel Blain & Prosser, P.A., 110 East Madison Street, Tampa, Florida 33602; Phone: 813-229-0144; Fax: 813-229-1811.

1. **Property to be Sold.** The Property that is offered for sale at the Auction shall be sold pursuant to Bankruptcy Code §363 free and clear of all liens, claims, encumbrances and other interests in the Property (except for ad valorem taxes). The Property to be offered for sale at the Auction is more fully described in the APA.

2. **Auction and Sale Approval Hearing.** Debtors have received approval to sell the Property under the terms of APA to the highest and best bidders, free and clear of liens, claims and encumbrances pursuant to 11 U. S. C. §§ 363 and 365. The Debtors shall conduct an auction **at the offices of Stichter Riedel Blain & Prosser, P.A., 110 East Madison Street, Tampa, Florida 33602, on January 17, 2011 at 2:00 p.m. Eastern Standard Time** (the “**Auction**”). The Bankruptcy Court will conduct a hearing to approve the sale resulting from the Auction at the **Sam M. Gibbons United States Courthouse, 801 N. Florida Avenue, Tampa, FL 33602, on January 20, 2010 at 10:30 a.m. Eastern Standard Time** (the “**Sale Approval Hearing**”).

3. **Purchase Price.** The reserve price for the Debtors’ Property to be sold at the Auction is at least Two Million and No/100 Dollars (\$2,000,000.00) (the “**Purchase Price**”).

4. **Bidding Qualifications.** Debtors shall determine whether a bidder is a “**Qualified Bidder.**” Bon Eau Enterprises, LLC, a Florida limited liability company (“**Bon Eau**”), or its assignees, are automatically Qualified Bidders pursuant to its credit bids under 11 U.S.C. §§ 363(k) of its secured claims and do not have to comply with the requirements of this paragraph and its subsections. To be eligible to be considered a Qualified Bidder, a prospective bidder must comply with the following terms and conditions, as well as the terms and conditions set forth in Paragraph 6 below (the “**Bidding Qualifications**”):

A. **Deposit.** A prospective bidder must deliver an earnest money deposit in the amount of \$100,000.00 (“**Deposit**”) in the form of a certified check or wire transfer payable to Stephen R. Leslie, Esq., Stichter Riedel Blain & Prosser, P. A. as escrow agent, 110 East Madison Street, Tampa, Florida 33602, Attention: Stephen R. Leslie; by January 10, 2011, at 5:00 p. m. Eastern Standard Time (the “**Bidding Deadline**”).

B. Financial Information. By the Bidding Deadline, a prospective bidder must also provide evidence to the Debtors of the ability to pay at least the Purchase Price, and other customary financial information. The sufficiency of such evidence will be in the discretion of the Debtors. Moreover, each bidder must provide evidence reasonably satisfactory to the Debtors demonstrating the bidder's financial ability to close and to consummate an acquisition of the Property, including without limitation evidence of the bidder's ability to comply with the requirements of Bankruptcy Code § 365 pertaining to any executory contracts to be assumed and assigned pursuant to Bankruptcy Code § 365.

C. Agreement for Purchase and Sale. By the Bidding Deadline, a prospective bidder must provide both a hard copy and an electronic copy of the initial written purchase offer to: (i) Debtors' representative, Victor G. Mellor, 5250 Linwood Road, Placida, Florida 33946, Fax: (941) 698-8888, Email: vmellor@hollowcore.net; (ii) Debtors' counsel, Stichter Riedel Blain & Prosser, P.A., 110 East Madison Street, Suite 200, Tampa, Florida 33602, Attention: Stephen R. Leslie, Esq., Fax: (813) 229-1811, Email: sleslie@srbp.com; and (iii) Bon Eau's counsel, Glenn Rasmussen Fogarty & Hooker, P.A., 100 South Ashley Drive, Suite 130, Tampa, Florida 33602, Attention: Gregory M. McCoskey, Esq., Fax: (813) 229-5946, Email: gmcoskey@glennrasmussen.com, in the form of an agreement, executed by such prospective purchaser, substantially in the form of the APA, with an additional copy, comparatively redlined with the APA, to show the changes made to the form of the APA by such prospective purchaser. The prospective bidder must also include a list of contracts it requests the Debtors to assume and assign. The Debtors may accept modifications to the APA submitted by a prospective purchaser who otherwise complies with the Bid Procedures if the Debtors, in the exercise of their business judgment, determine that the proposed modifications, independently or in conjunction with any other competing Qualified Bid(s), result(s) in a higher or better offer.

D. Related Party Disclosures. Each prospective bidder must disclose any connections or agreements with Debtors, Bon Eau, any other prospective bidder or Qualified Bidder, and/or any officer, director or equity security holder of the Debtors or Bon Eau.

E. Acceptance of Bid Procedures. Each prospective bidder must confirm in writing its agreement to accept and abide by the terms, conditions and procedures set forth in the Bid Procedures Order, as defined in the APA.

F. Appearance at the Auction and Sale Approval Hearing. All Qualified Bidders shall appear in person at the Auction and Sale Approval Hearing or through a duly authorized representative.

G. Jurisdiction. All Qualified Bidders shall be deemed to have consented to the jurisdiction of the Bankruptcy Court and to have waived any right to jury trial in connection with any disputes related to the Auction or the Property.

H. Evidence of Good Faith. Each Qualified Bidder shall provide Debtors with evidence in the form satisfactory to Debtors of such Qualified Bidder's good faith within the meaning of Bankruptcy Code § 363(m) at or before the Auction.

I. Due Diligence. The Debtors will comply with any reasonable requests for due diligence or other information requests made by a prospective bidder prior to the Auction, subject to the execution of a confidentiality agreement by such prospective bidder. All such requests must be made in writing to the Debtors' representative, with a copy to Debtors' counsel, at the addresses listed above.

5. Identification of Qualified Bidders. No prospective bidder shall be permitted to bid at the Auction unless such bidder is a Qualified Bidder. No later than three (3) business days prior to the Auction, Debtors and their professionals shall determine which prospective bidders, if any, constitute Qualified Bidders. Debtors may request additional information from a prospective bidder in order to evaluate the bidder's ability to consummate a transaction and to fulfill its obligations in connection therewith, and such bidder shall be obligated to provide such information as a precondition to participating further in the Auction. Only the Debtors will have standing to seek a determination of whether a bidder is a Qualified Bidder. Bon Eau, or its respective assignees, are automatically Qualified Bidders pursuant to their credit bids under Bankruptcy Code § 363(k) of their secured claims and do not have to comply with the requirements of this paragraph.

6. Bid Procedures. A "Qualified Bid" must: (i) exceed the existing Purchase Price by at least \$100,000.00 (the "Overbid Amount") plus the Breakup Fee Payment and the Expense Reimbursement (both as defined below) and provide that the Purchase Price will be paid in cash at closing; (ii) provide sufficient indicia that any representative of a Qualified Bidder is legally authorized and empowered, by power of attorney or otherwise, to (a) bid on behalf of the Qualified Bidder and (b) complete and sign, on behalf of the Qualified Bidder, a binding and enforceable purchase agreement; (iii) not contain any contingencies to the validity, effectiveness, and/or binding nature of the bid, including, without limitation, contingencies for financing, due diligence, or inspection; (iv) provide for post-closing cooperation and assistance to the Debtors, as determined by the Debtors; (v) provide proof of ability, financial or otherwise, to perform on any executory contract to be assumed as required by the Bankruptcy Code and any other applicable law; (vi) be valid and enforceable through the closing date; and (vii) be submitted *so that it is actually received* by no later than the Bidding Deadline, to the Debtors and counsel for the Debtors. Each Qualified Bidder should be prepared to make its best and final offer at the Auction. Bon Eau, or its respective assignees, are exempt from these qualifications by virtue of their credit bids under Bankruptcy Code § 363(k).

7. Bidding Process. The Auction will be conducted in accordance with the following bidding process:

A. After bidding commences, any successive overbid must be made by a Qualified Bidder and free of any financing, due diligence, or other contingencies. Bon Eau or its respective assignees are exempt from these qualifications by virtue of its credit bids under Bankruptcy Code § 363(k);

B. Any successive overbids shall be made by a Qualified Bidder and shall be made in increments of not less than \$100,000.00 of cash consideration in excess of the last submitted, highest, qualified bid for the Property. Bon Eau shall have the right to match any successive overbid, net of the Breakup Fee Payment and the Expense Reimbursement (both as defined below);

C. Any successive overbid shall be irrevocable unless and until it is not deemed the highest and best bid;

D. The competitive bidding among Qualified Bidders shall continue according to these procedures until the highest and best bid (the "**Successful Bidder**") to purchase the Assets is received by the Debtors (the "**Winning Bid**");

E. In the event a Qualified Bidder, other than Bon Eau, is the successful Bidder and acquires the Property, then Bon Eau shall be entitled to a break-up fee (the "**Breakup Fee Payment**") payable in cash in the amount not to exceed \$50,000.00 plus the reimbursement to Bon Eau for its reasonable expenses incurred for due diligence, contract negotiation and contract preparation (the "**Expense Reimbursement**"), which amount shall be \$50,000. The reasonableness and the amount of the Breakup Fee Payment and Expense Reimbursement shall be subject to approval by the Court.

F. Debtors shall be authorized to accept the second highest and best bid (the "**Back-up Bidder**") as a back-up bid (the "**Back-up Bid**") to the Successful Bidder's bid, provided, however, that the proposed Back-Up Bidder consents to serve as such;

G. The Successful Bidder shall be required to close, subsequent to the entry of the order approving the sale to the Successful Bidder, no later than January 24, 2011, or such earlier date as the Successful Bidder elects to close. The Purchase Price shall be paid in cash at the closing unless Bon Eau, or its respective assignees, is the Successful Bidder by virtue of its Credit Bid. The Back-Up Bidder shall be obligated to close on the Back-Up Bid if the Successful Bidder does not timely close within 5 days after the Successful Bidder's failure to close.

H. If Bon Eau, or its respective assignees, is the second highest bidder, Bon Eau, or its respective assignees, may, at its discretion, act as the Back-Up Bidder if the Successful Bidder does not close for any reason. If Bon Eau, or its respective assignees, is not the highest or second highest bidder, Bon Eau shall, or their respective assignees, at their election, have the right to stand as an additional backup buyer if the Successful Bidder or Back-up Bidder does not close for any reason.

8. **Disposition of Deposit.** The Deposit will only be refunded to the Qualified Bidder if the Qualified Bidder is not in breach of the APA or any Court order and if: (i) Qualified Bidder is not the Successful Bidder or the Back-Up Bidder; (ii) the Bankruptcy Court does not approve the sale to the Successful Bidder or the Back-Up Bidder; (iii) the Qualified Bidder is the Back-Up Bidder and the Successful Bidder closes on the transaction; or (iv) Successful Bidder or

the Back-Up Bidder's obligation to close on the APA is excused by Debtors' breach or otherwise. Any Deposits retained pursuant to this paragraph are deemed forfeited and immediately become property of the Debtors' Bankruptcy estates. Any Deposits received by parties not determined to be Qualified Bidders shall be returned, without any accrued interest, to the party making the deposit within two (2) business days of the determination that the party was not a Qualified Bidder.

9. **Bankruptcy Court Approval.** The Sale is subject to the approval of the Bankruptcy Court at the Sale Approval Hearing.

10. **Debtors' Business Judgment.** The Debtors: (a) may exercise their business judgment to recommend the sale of the Property to any Qualified Bidders whose bid the Debtors determine, in their reasonable discretion, to be the highest and best and in the best interests of the Debtors' estates; and (b) shall consult with any significant constituent, that they deem necessary in connection with the bidding process and the selection of the highest or otherwise best bid. Debtors reserve the right to cancel the Auction for any reason and to object to and oppose any request for a recess or for a continuance of the Auction and the Sale Approval Hearing.

11. **No Representation.** Each Qualified Bidder shall be deemed to acknowledge that it is not relying upon any oral or written statement, representations, or warranties of the Debtors, or any of their agents, or representatives.

12. **Additional Terms.** Debtors may, at or before the Auction, impose such other and additional terms and conditions not inconsistent with these Bid Procedures as they determine to be in the best interests of the Debtors, the Debtors' estates and their creditors, or other parties in interest.

EXHIBIT "C"
FORM OF ORDER

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

In re:	Chapter 11
VICTOR G. MELLOR,	Case No. 9:10-bk-20398-DHA
COLONIAL CONSTRUCTION COMPANY, INC.,	Case No. 9:10-bk-28157-DHA
COLONIAL READY MIX, LLC,	Case No. 9:10-bk-28157-DHA
CCC TRUCKING, LLC,	Case No. 9:10-bk-28161-DHA
Debtors.	(Jointly Administered under Case No. 9:10-bk-20398-DHA)

**ORDER (A) ESTABLISHING BID PROCEDURES
AND SALE PROCESS; (B) APPROVING ASSET PURCHASE
AGREEMENT; (C) APPROVING FORM AND MANNER OF NOTICES;
AND (D) SCHEDULING AUCTION AND FINAL SALE APPROVAL HEARING**

THIS CASE came before the Court for hearing on December 16, 2010, at 10:30 a.m. for consideration of the motion (the “**Motion**”)¹ filed by Colonial Construction Company, Inc. (“**Colonial**”), Colonial Ready Mix, LLC (“**Ready Mix**”), and CCC Trucking, LLC (“**CCC Trucking**”, and collectively with Colonial and Ready Mix, the “**Debtors**” or the “**Corporate Debtors**”) seeking, pursuant to 11 U. S. C. §§ 105, 363 and 365 of Title 11, United States Code (the “**Bankruptcy Code**”), Fed. R. Bank. P. 2002, 6004, 6004, 6006, and 9014 (the “**Bankruptcy Rules**”) and Local Rules 2002-1, 6004-1, and 9014-1 (the “**Local Rules**”) the entry of an order authorizing the sale of

¹ Capitalized terms used but not defined herein have the meanings given to such terms in the Motion and all Exhibits thereto.

substantially all of the Property owned by Debtors free and clear of liens, claims and encumbrances; establishing bidding procedures and sale process, attached hereto as Exhibit "A" (the "**Bidding Procedures**"); approving the Asset Purchase Agreement ("**APA**");² approving form and manner of notices; scheduling auction and final sale approval hearing ("**Sale Hearing**"); and authorizing the rejection of certain executory contracts ("**Rejected Executory Contracts**") and the assumption and assignment of certain executory contracts ("**Accepted Executory Contracts**"). The Court having conducted a hearing on the Motion on December 16, 2010 at 10:30 p.m. (the "**Bidding Procedures Hearing**") at which time all interested parties were offered an opportunity to be heard with respect to the Motion, the Court having reviewed and considered: (i) the Motion and the Exhibits thereto, including the Bidding Procedures that are also attached hereto as Exhibit "A"; (ii) all objections to the Bidding Procedures; (iii) the proffers at the Bidding Procedures Hearing; (iv) the manner of notice, as further described below; (v) the arguments made by counsel; and (vi) and the evidence proffered and adduced at the Bidding Procedures Hearing; and it appearing that the relief requested in the Motion is reasonable and in the best interests of the Debtors' bankruptcy estates, their creditors, and other parties in interest, and after deliberation and sufficient cause appearing:

IT IS HEREBY FOUND AND DETERMINED THAT:

(a) The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

² A copy of the APA is attached to the Motion as Exhibit "A. "

(b) The Debtors have articulated good and sufficient reasons for, and the best interests of their estates, creditors, and other parties in interest will be served by, this Court granting certain of the relief requested in the Motion relating to that certain APA, dated as of November 22, 2010 between the Debtors and Bon Eau Enterprises, LLC, a Florida limited liability company (“**Bon Eau**”), for the sale of the Debtors’ Property to Bon Eau or to the Successful Bidder if not Bon Eau, and in connection therewith, the approval of the Bidding Procedures and the form, timing and manner of notice of the proposed sale.

(c) The Debtors and Bon Eau are relying on the mutual performance of their respective obligations set forth in the APA. The Debtors and Bon Eau have entered into the APA expecting all parties to perform these obligations and to provide each other with reasonable assurances that they will be in a position to consummate the transactions contemplated by the APA in the event that Bon Eau is selected as the Successful Bidder.

(d) Under the circumstances, the Bidding Procedures constitute a reasonable, sufficient, adequate, and proper means to provide potential competing bidders with an opportunity to submit and pursue higher and better offers for all or substantially all of the Property.

(e) The Debtors have articulated good and sufficient reasons for, and the best interests of their estates and parties in interest will be served by, this Court scheduling a Sale Hearing to consider granting the remaining relief requested in the Motion, including approval of transfer of the Property to Bon Eau or the Successful Bidder free and clear of all liens, claims, and encumbrances pursuant to Section 363(f) of the Bankruptcy Code.

(f) The Motion and this Order comply with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

(g) Due, sufficient, and adequate notice of the relief granted herein has been given to the parties in interest.

IT IS ORDERED that:

1. The Motion is GRANTED to the extent set forth herein.
2. The Bidding Procedures, which are attached hereto as Exhibit "A" and incorporated herein by reference, are hereby approved in all respects and shall govern all bids and bid proceedings relating to the Property.
3. The failure specifically to include or reference any particular provision of the Bidding Procedures in this Order shall not diminish or impair the effectiveness of such procedure, it being the intent of the Court that the Bidding Procedures be authorized and approved in their entirety.
4. Any person wishing to submit a higher or better offer for the Property must do so in accordance with the terms of the Bidding Procedures.
5. The Debtors shall provide such reasonable due diligence materials with respect to the Property as may be requested by any interested party prior to the Auction, subject to the execution of a confidentiality agreement by such interested party.
6. The Auction shall be held in accordance with the Bidding Procedures on January 17, 2011 at 2:00 p.m. Eastern Standard Time at the offices of Stichter, Riedel, Blain & Prosser, P. A., 110 East Madison Street, Tampa, Florida, 33602.

7. The Court shall conduct a Sale Hearing on January 20, 2011 at 10:30 a.m. Eastern Standard Time at the United States Courthouse, Fort Myers Federal Building, 2110 First Street, Room 4-117, Courtroom E, Fort Myers, Florida. At the Sale Hearing, the Court will consider approval of the sale of the Property to the Successful Bidder, whether Bon Eau or another party is the Successful Bidder. Any party objecting to the Property being sold to Bon Eau or to the Successful Bidder after the Auction shall file with the Bankruptcy Court in this matter its objection to such, including all grounds, no later than forty-eight (48) hours prior to the Sale Hearing. Any objecting party shall serve its objection electronically on all parties in interest. The Court shall rule upon any such objection at the Sale Hearing.

8. The manner of notice of the proposed sale, the Bidding Procedures, and the Sale Hearing as set forth in this paragraph constitutes sufficient and proper notice and is approved in all respects. In particular, no other or further notice of the proposed sale, the Bidding Procedures and the Sale Hearing shall be required except as follows:

(a) within two (2) business days of entry of this Order (the “**Mailing Deadline**”), the Debtors shall serve this Order, together with the Bidding Procedures attached as Exhibit “A” hereto, by first-class mail, postage prepaid upon: (i) the Office of the United States Trustee for the Middle District of Florida; (ii) counsel to Bon Eau; (iii) those parties listed in the L.B.R. 1007-2 Parties in Interest List; (iv) any party which, in the six months prior to the Petition Date, expressed in writing to Debtors an interest in acquiring the Property; (v) all

lessors or other parties to the Executory Contracts; and (vi) any other party identified on the creditor matrix in these cases.

9. The manner of notice of the proposed sale, the Bidding Procedures, and the Sale Hearing is approved in all respects. In particular, no other or further notices of the proposed sale, the Bidding Procedures, or the Sale Hearing shall be required.

10. Subject to Debtors' rights under the APA, the results of the Auction, and the entry of a final order on the Motion, the Debtors are authorized to and directed to comply with the APA and its obligations and undertakings.

11. Unless otherwise expressly set forth herein, all time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

12. The Debtors are authorized and empowered to take such steps, expend such sums of money, and do other things as may be necessary to implement and effect the terms and requirements established and relief granted in this Order.

13. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

DONE and **ORDERED** in Chambers at Ft. Myers, Florida, on _____.

David H. Adams
United States Bankruptcy Judge

Copies to:

Debtors' Counsel, to be served in accordance with this Order

EXHIBIT "A"
BIDDING PROCEDURES

BIDDING PROCEDURES

The following procedures (the “**Bid Procedures**”) have been approved and authorized by the United States Bankruptcy Court for the Middle District of Florida, Fort Myers Division (the “**Bankruptcy Court**”) in the jointly administered bankruptcy cases styled *In re Victor G. Mellor*, *In re Colonial Construction Company, Inc.*, *In re Ready Mix Concrete, LLC*, and *In re CCC Trucking, LLC*, jointly administered under Case No. 9:10-20398-DHA, and shall govern the auction conducted by Debtors (i) Colonial Construction Company, Inc., (ii) Ready Mix Concrete, LLC, and (iii) CCC Trucking, LLC, (the “**Debtors**” or “**Sellers**”) of the Debtors’ property (the “**Property**”) as defined in and pursuant to the terms of the Asset Purchase Agreement (the “**APA**”) which will be utilized in connection with the Auction, as defined below, and sale of the Property (the “**Sale**”). A copy of the APA can be obtained by contacting Stephen R. Leslie, Esq. at Stichter Riedel Blain & Prosser, P.A., 110 East Madison Street, Tampa, Florida 33602; Phone: 813-229-0144; Fax: 813-229-1811.

1. **Property to be Sold.** The Property that is offered for sale at the Auction shall be sold pursuant to Bankruptcy Code §363 free and clear of all liens, claims, encumbrances and other interests in the Property (except for ad valorem taxes). The Property to be offered for sale at the Auction is more fully described in the APA.

2. **Auction and Sale Approval Hearing.** Debtors have received approval to sell the Property under the terms of APA to the highest and best bidders, free and clear of liens, claims and encumbrances pursuant to 11 U. S. C. §§ 363 and 365. The Debtors shall conduct an auction **at the offices of Stichter Riedel Blain & Prosser, P.A., 110 East Madison Street, Tampa, Florida 33602, on January 17, 2011 at 2:00 p.m. Eastern Standard Time** (the “**Auction**”). The Bankruptcy Court will conduct a hearing to approve the sale resulting from the Auction at the **Sam M. Gibbons United States Courthouse, 801 N. Florida Avenue, Tampa, FL 33602, on January 20, 2010 at 10:30 a.m. Eastern Standard Time** (the “**Sale Approval Hearing**”).

3. **Purchase Price.** The reserve price for the Debtors’ Property to be sold at the Auction is at least Two Million and No/100 Dollars (\$2,000,000.00) (the “**Purchase Price**”).

4. **Bidding Qualifications.** Debtors shall determine whether a bidder is a “**Qualified Bidder.**” Bon Eau Enterprises, LLC, a Florida limited liability company (“**Bon Eau**”), or its assignees, are automatically Qualified Bidders pursuant to its credit bids under 11 U.S.C. §§ 363(k) of its secured claims and do not have to comply with the requirements of this paragraph and its subsections. To be eligible to be considered a Qualified Bidder, a prospective bidder must comply with the following terms and conditions, as well as the terms and conditions set forth in Paragraph 6 below (the “**Bidding Qualifications**”):

A. **Deposit.** A prospective bidder must deliver an earnest money deposit in the amount of \$100,000.00 (“**Deposit**”) in the form of a certified check or wire transfer payable to Stephen R. Leslie, Esq., Stichter Riedel Blain & Prosser, P. A. as escrow agent, 110 East Madison Street, Tampa, Florida 33602, Attention: Stephen R. Leslie; by January 10, 2011, at 5:00 p. m. Eastern Standard Time (the “**Bidding Deadline**”).

B. Financial Information. By the Bidding Deadline, a prospective bidder must also provide evidence to the Debtors of the ability to pay at least the Purchase Price, and other customary financial information. The sufficiency of such evidence will be in the discretion of the Debtors. Moreover, each bidder must provide evidence reasonably satisfactory to the Debtors demonstrating the bidder's financial ability to close and to consummate an acquisition of the Property, including without limitation evidence of the bidder's ability to comply with the requirements of Bankruptcy Code § 365 pertaining to any executory contracts to be assumed and assigned pursuant to Bankruptcy Code § 365.

C. Agreement for Purchase and Sale. By the Bidding Deadline, a prospective bidder must provide both a hard copy and an electronic copy of the initial written purchase offer to: (i) Debtors' representative, Victor G. Mellor, 5250 Linwood Road, Placida, Florida 33946, Fax: (941) 698-8888, Email: vmellor@hollowcore.net; (ii) Debtors' counsel, Stichter Riedel Blain & Prosser, P.A., 110 East Madison Street, Suite 200, Tampa, Florida 33602, Attention: Stephen R. Leslie, Esq., Fax: (813) 229-1811, Email: sleslie@srbp.com; and (iii) Bon Eau's counsel, Glenn Rasmussen Fogarty & Hooker, P.A., 100 South Ashley Drive, Suite 130, Tampa, Florida 33602, Attention: Gregory M. McCoskey, Esq., Fax: (813) 229-5946, Email: gmcoskey@glennrasmussen.com, in the form of an agreement, executed by such prospective purchaser, substantially in the form of the APA, with an additional copy, comparatively redlined with the APA, to show the changes made to the form of the APA by such prospective purchaser. The prospective bidder must also include a list of contracts it requests the Debtors to assume and assign. The Debtors may accept modifications to the APA submitted by a prospective purchaser who otherwise complies with the Bid Procedures if the Debtors, in the exercise of their business judgment, determine that the proposed modifications, independently or in conjunction with any other competing Qualified Bid(s), result(s) in a higher or better offer.

D. Related Party Disclosures. Each prospective bidder must disclose any connections or agreements with Debtors, Bon Eau, any other prospective bidder or Qualified Bidder, and/or any officer, director or equity security holder of the Debtors or Bon Eau.

E. Acceptance of Bid Procedures. Each prospective bidder must confirm in writing its agreement to accept and abide by the terms, conditions and procedures set forth in the Bid Procedures Order, as defined in the APA.

F. Appearance at the Auction and Sale Approval Hearing. All Qualified Bidders shall appear in person at the Auction and Sale Approval Hearing or through a duly authorized representative.

G. Jurisdiction. All Qualified Bidders shall be deemed to have consented to the jurisdiction of the Bankruptcy Court and to have waived any right to jury trial in connection with any disputes related to the Auction or the Property.

H. Evidence of Good Faith. Each Qualified Bidder shall provide Debtors with evidence in the form satisfactory to Debtors of such Qualified Bidder's good faith within the meaning of Bankruptcy Code § 363(m) at or before the Auction.

I. Due Diligence. The Debtors will comply with any reasonable requests for due diligence or other information requests made by a prospective bidder prior to the Auction, subject to the execution of a confidentiality agreement by such prospective bidder. All such requests must be made in writing to the Debtors' representative, with a copy to Debtors' counsel, at the addresses listed above.

5. Identification of Qualified Bidders. No prospective bidder shall be permitted to bid at the Auction unless such bidder is a Qualified Bidder. No later than three (3) business days prior to the Auction, Debtors and their professionals shall determine which prospective bidders, if any, constitute Qualified Bidders. Debtors may request additional information from a prospective bidder in order to evaluate the bidder's ability to consummate a transaction and to fulfill its obligations in connection therewith, and such bidder shall be obligated to provide such information as a precondition to participating further in the Auction. Only the Debtors will have standing to seek a determination of whether a bidder is a Qualified Bidder. Bon Eau, or its respective assignees, are automatically Qualified Bidders pursuant to their credit bids under Bankruptcy Code § 363(k) of their secured claims and do not have to comply with the requirements of this paragraph.

6. Bid Procedures. A "Qualified Bid" must: (i) exceed the existing Purchase Price by at least \$100,000.00 (the "Overbid Amount") plus the Breakup Fee Payment and the Expense Reimbursement (both as defined below) and provide that the Purchase Price will be paid in cash at closing; (ii) provide sufficient indicia that any representative of a Qualified Bidder is legally authorized and empowered, by power of attorney or otherwise, to (a) bid on behalf of the Qualified Bidder and (b) complete and sign, on behalf of the Qualified Bidder, a binding and enforceable purchase agreement; (iii) not contain any contingencies to the validity, effectiveness, and/or binding nature of the bid, including, without limitation, contingencies for financing, due diligence, or inspection; (iv) provide for post-closing cooperation and assistance to the Debtors, as determined by the Debtors; (v) provide proof of ability, financial or otherwise, to perform on any executory contract to be assumed as required by the Bankruptcy Code and any other applicable law; (vi) be valid and enforceable through the closing date; and (vii) be submitted *so that it is actually received* by no later than the Bidding Deadline, to the Debtors and counsel for the Debtors. Each Qualified Bidder should be prepared to make its best and final offer at the Auction. Bon Eau, or its respective assignees, are exempt from these qualifications by virtue of their credit bids under Bankruptcy Code § 363(k).

7. Bidding Process. The Auction will be conducted in accordance with the following bidding process:

A. After bidding commences, any successive overbid must be made by a Qualified Bidder and free of any financing, due diligence, or other contingencies. Bon Eau or its respective assignees are exempt from these qualifications by virtue of its credit bids under Bankruptcy Code § 363(k);

B. Any successive overbids shall be made by a Qualified Bidder and shall be made in increments of not less than \$100,000.00 of cash consideration in excess of the last submitted, highest, qualified bid for the Property. Bon Eau shall have the right to match any successive overbid, net of the Breakup Fee Payment and the Expense Reimbursement (both as defined below);

C. Any successive overbid shall be irrevocable unless and until it is not deemed the highest and best bid;

D. The competitive bidding among Qualified Bidders shall continue according to these procedures until the highest and best bid (the "**Successful Bidder**") to purchase the Assets is received by the Debtors (the "**Winning Bid**");

E. In the event a Qualified Bidder, other than Bon Eau, is the successful Bidder and acquires the Property, then Bon Eau shall be entitled to a break-up fee (the "**Breakup Fee Payment**") payable in cash in the amount not to exceed \$50,000.00 plus the reimbursement to Bon Eau for its reasonable expenses incurred for due diligence, contract negotiation and contract preparation (the "**Expense Reimbursement**"), which amount shall be \$50,000. The reasonableness and the amount of the Breakup Fee Payment and Expense Reimbursement shall be subject to approval by the Court.

F. Debtors shall be authorized to accept the second highest and best bid (the "**Back-up Bidder**") as a back-up bid (the "**Back-up Bid**") to the Successful Bidder's bid, provided, however, that the proposed Back-Up Bidder consents to serve as such;

G. The Successful Bidder shall be required to close, subsequent to the entry of the order approving the sale to the Successful Bidder, no later than January 24, 2011, or such earlier date as the Successful Bidder elects to close. The Purchase Price shall be paid in cash at the closing unless Bon Eau, or its respective assignees, is the Successful Bidder by virtue of its Credit Bid. The Back-Up Bidder shall be obligated to close on the Back-Up Bid if the Successful Bidder does not timely close within 5 days after the Successful Bidder's failure to close.

H. If Bon Eau, or its respective assignees, is the second highest bidder, Bon Eau, or its respective assignees, may, at its discretion, act as the Back-Up Bidder if the Successful Bidder does not close for any reason. If Bon Eau, or its respective assignees, is not the highest or second highest bidder, Bon Eau shall, or their respective assignees, at their election, have the right to stand as an additional backup buyer if the Successful Bidder or Back-up Bidder does not close for any reason.

8. **Disposition of Deposit.** The Deposit will only be refunded to the Qualified Bidder if the Qualified Bidder is not in breach of the APA or any Court order and if: (i) Qualified Bidder is not the Successful Bidder or the Back-Up Bidder; (ii) the Bankruptcy Court does not approve the sale to the Successful Bidder or the Back-Up Bidder; (iii) the Qualified Bidder is the Back-Up Bidder and the Successful Bidder closes on the transaction; or (iv) Successful Bidder or

the Back-Up Bidder's obligation to close on the APA is excused by Debtors' breach or otherwise. Any Deposits retained pursuant to this paragraph are deemed forfeited and immediately become property of the Debtors' Bankruptcy estates. Any Deposits received by parties not determined to be Qualified Bidders shall be returned, without any accrued interest, to the party making the deposit within two (2) business days of the determination that the party was not a Qualified Bidder.

9. **Bankruptcy Court Approval.** The Sale is subject to the approval of the Bankruptcy Court at the Sale Approval Hearing.

10. **Debtors' Business Judgment.** The Debtors: (a) may exercise their business judgment to recommend the sale of the Property to any Qualified Bidders whose bid the Debtors determine, in their reasonable discretion, to be the highest and best and in the best interests of the Debtors' estates; and (b) shall consult with any significant constituent, that they deem necessary in connection with the bidding process and the selection of the highest or otherwise best bid. Debtors reserve the right to cancel the Auction for any reason and to object to and oppose any request for a recess or for a continuance of the Auction and the Sale Approval Hearing.

11. **No Representation.** Each Qualified Bidder shall be deemed to acknowledge that it is not relying upon any oral or written statement, representations, or warranties of the Debtors, or any of their agents, or representatives.

12. **Additional Terms.** Debtors may, at or before the Auction, impose such other and additional terms and conditions not inconsistent with these Bid Procedures as they determine to be in the best interests of the Debtors, the Debtors' estates and their creditors, or other parties in interest.