

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:)	
)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i>,¹)	Case No. 09-12074 (KJC)
Debtors.)	Jointly Administered
)	Objection Deadline: August 6, 2009 at 4:00 p.m. (ET)
)	Ref. Docket Nos. 17 and 290

**NOTICE OF FILING OF AFFIDAVIT IN CONNECTION WITH THE ORDER
PURSUANT TO SECTIONS 105(a), 363, AND 554 OF THE BANKRUPTCY CODE
APPROVING (A) PROCEDURES FOR THE SALE OF CERTAIN *DE MINIMIS*
ASSETS FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES WITHOUT
FURTHER COURT APPROVAL, (B) PAYMENT OF MARKET RATE BROKERS'
AND AUCTIONEERS' COMMISSIONS IN CONNECTION WITH THE SALES, AND
(C) ABANDONMENT OR DONATION OF CERTAIN PROPERTY**

PLEASE TAKE NOTICE that on June 16, 2009, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the Debtors' Motion for Interim and Final Orders Pursuant to Sections 105(a), 363, and 554 of the Bankruptcy Code Approving (A) Procedures for the Sale of Certain *De Minimis* Assets Free and Clear of Liens, Claims, and Encumbrances Without Further Court Approval, (B) Payment of Market Rate Brokers' and Auctioneers' Commissions in Connection With the Sales, and (C) Abandonment or Donation of Certain Property [Docket No. 17] (the "De Minimis Asset Sale Motion").² Pursuant to the De Minimis Asset Sale Motion, the Debtors requested the Court to enter an order authorizing and approving the Debtors to, among other things, engage Brokers and Auctioneers in connection with the Debtors' sale of certain miscellaneous assets and, subject to the terms and conditions of the De Minimis Asset Sale Order (as defined below), to pay and honor market rate commissions due to Brokers and Auctioneers and reasonable expenses incurred by such Brokers and Auctioneers in connection with such asset sales.

PLEASE TAKE FURTHER NOTICE that on July 22, 2009, the Court entered the Order Pursuant to Sections 105(a), 363, and 554 of the Bankruptcy Code Approving (A)

¹ The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the De Minimis Asset Sale Motion or the De Minimis Asset Sale Order (as defined below), as appropriate.

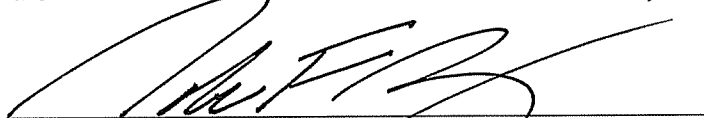
Procedures for the Sale of Certain *De Minimis* Assets Free and Clear of Liens, Claims, and Encumbrances Without Further Court Approval, (B) Payment of Market Rate Brokers' and Auctioneers' Commissions in Connection With the Sales, and (C) Abandonment or Donation of Certain Property [Docket No. 290] (the "De Minimis Asset Sale Order"), which provides that within forty-five (45) days of (i) entry of such order or (ii) the inception of the entity's employment, whichever occurs later, each Broker or Auctioneer engaged by the Debtors pursuant thereto shall file with the Court an affidavit substantially in the form attached thereto as Exhibit A.

PLEASE TAKE FURTHER NOTICE that pursuant to the De Minimis Asset Sale Order, the Debtors hereby file this notice of filing of the affidavit (the "Affidavit") of Ritchie Bros. Auctioneers (America) Inc. ("Ritchie Bros."), a copy of which is attached hereto as Exhibit 1. The Affidavit has been served on the Office of the United States Trustee for the District of Delaware, counsel to the Official Committee of Unsecured Creditors and counsel to Wells Fargo Bank, as agent under the Debtors' Prepetition Credit Agreement and DIP Facility (as defined in the chapter 11 plan filed by the Debtors in these chapter 11 cases) (together with the Debtors, each a "Notice Party," and collectively, the "Notice Parties").

PLEASE TAKE FURTHER NOTICE that pursuant to the De Minimis Asset Sale Order, the Notice Parties shall have until **August 6, 2009 at 4:00 p.m. (ET)** (the "Objection Deadline") to object to the retention of Ritchie Bros. Any objecting Notice Party shall file such objection with the Court and serve such objection upon the Notice Parties and Ritchie Bros. on or before the Objection Deadline.

Dated: Wilmington, Delaware
July 27, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Sean M. Beach (No. 4070)
Donald J. Bowman, Jr. (No. 4383)
Robert F. Poppiti, Jr. (No. 5052)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, Delaware 19899-0391
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

----and----

GIBSON, DUNN & CRUTCHER LLP
Michael A. Rosenthal (admitted *pro hac vice*)
Matthew K. Kelsey (admitted *pro hac vice*)
Saeed M. Muzumdar (admitted *pro hac vice*)
200 Park Avenue, 47th Floor
New York, New York 10166-0193

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Aaron G. York (admitted *pro hac vice*)
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Telephone: (214) 698-3100
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ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION

EXHIBIT 1

Affidavit

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:)	
)	Chapter 11
BUILDING MATERIALS HOLDING)	
CORPORATION, <i>et al.</i>,¹)	Case No. 09-12074 (KJC)
)	
Debtors.)	Jointly Administered
)	
)	Ref. Docket Nos. 17 and 290

VERIFIED STATEMENTS OF CONNECTIONS

I, Darren J. Watt, declare under penalty of perjury:

1. I am Counsel and Director Legal Affairs of Ritchie Bros.

Auctioneers (America) Inc., located at 4000 Pine Lake Road, Lincoln, Nebraska, 68516
(the "*Firm*").

2. Building Materials Holding Corporation and its affiliates, as
debtors and debtors in possession (collectively, the "*Debtors*") have requested that the
Firm provide auctioneering services to the Debtors in respect of certain equipment, and
the Firm has consented to provide such services.

3. The Firm may have performed services in the past, may currently
perform services and may perform services in the future, in matters unrelated to these
chapter 11 cases, for persons that are parties in interest in these chapter 11 cases. The
Firm does not perform services for any such person in connection with these chapter 11

¹ The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.



cases, or have any relationship with any such person, their attorneys or accountants that would be adverse to the Debtors or their estates. Furthermore, if the Firm is either (i) not a law firm or (ii) a law firm that did not represent the Debtors prior to their bankruptcy filings, the Firm is a "disinterested person" under 11 U.S.C. § 101(14), such that the Firm:

- (a) is not a creditor, an equity security holder, or an insider of any of the Debtors;
- (b) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of any of the Debtors; and
- (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

4. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be employed by the Debtors, claimants, and parties-in-interest in the Debtors' chapter 11 cases.

5. Neither I nor any principal, partner, director and/or officer of or professional employed by, the Firm has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than the principal and regular employees of the Firm.

6. Neither I nor any principal, partner, director and/or officer of or professional employed by, the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates with respect to the matter(s) upon which this Firm is to be employed. Furthermore, if the Firm is either (i) not a law firm or (ii) a law firm that did not represent the Debtors prior to their bankruptcy filings, I

state that neither I nor any principal, partner, director and/or officer of or professional employed by, the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors.

7. The Debtors owe the Firm \$0.00 for prepetition services, the payment of which is subject to limitations contained in the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532. If the Firm is either (i) not a law firm or (ii) a law firm that did not represent the Debtors prior to their bankruptcy filings, my signature below acknowledges that the Firm understands that any and all pre-petition claims that it has against the Debtors will be deemed waived if the Firm's employment is authorized.

8. As of June 16, 2009, which was the date on which the Debtors commenced these chapter 11 cases, the Firm was party to an engagement or services agreement with the Debtors. A copy of such agreement is attached as *Exhibit A* to this Declaration.

9. As of June 16, 2009, the Firm was party to an agreement for indemnification with certain of the Debtors. A copy of such agreement is attached as *Exhibit A* to this Declaration.

10. If the Firm is not a law firm, the following is a list of all payments which the Firm received from the Debtors during the year prior to the Debtors' bankruptcy filings:

Invoice and Payment Date	Invoice Amount	Date of Services Covered by Invoice	Payment Amount
August 22, 2008	\$6,108.95	August 6, 2008	\$6,108.95
September 9, 2008	\$70,524.50	August 22, 2008	\$70,524.50

Invoice and Payment Date	Invoice Amount	Date of Services Covered by Invoice	Payment Amount
September 11, 2008	\$4,277.50	August 26, 2008	\$4,277.50
October 8, 2008	\$11,501.25	September 22, 2008	\$11,501.25
October 10, 2008	\$6,867.50	September 24, 2008	\$6,867.50
October 14, 2008	\$1,208.75	September 26, 2008	\$1,208.75
October 17, 2008	\$427.50	October 1, 2008	\$427.50
November 3, 2008	\$6,012.50	October 16, 2008	\$6,012.50
December 1, 2008	\$102,946.50	November 13, 2008	\$102,946.50
December 2, 2008	\$6,656.61	November 14, 2008	\$6,656.61
December 5, 2008	\$8,793.35	November 19, 2008	\$8,793.35
December 9, 2008	\$455.00	November 21, 2008	\$455.00
December 23, 2008	\$7,081.50	December 5, 2008	\$7,081.50
December 26, 2008	\$13,591.82	December 10, 2008	\$13,591.82
December 30, 2008	\$7,339.05	December 12, 2008	\$7,339.05
January 2, 2009	\$37,523.53	December 17, 2008	\$37,523.53
February 24, 2009	\$26,845.95	February 6, 2009	\$26,845.95
March 16, 2009	\$41,687.50	February 26, 2009	\$41,687.50
March 17, 2009	\$50,177.96	February 28, 2009	\$50,177.96

Invoice and Payment Date	Invoice Amount	Date of Services Covered by Invoice	Payment Amount
March 24, 2009	\$15,544.00	March 6, 2009	\$15,544.00
March 26, 2009	\$4,577.50	March 10, 2009	\$4,577.50
April 6, 2009	\$25,577.27	March 19, 2009	\$25,577.27
April 14, 2009	\$13,686.25	March 27, 2009	\$13,686.25
April 21, 2009	\$6,234.32	April 3, 2009	\$6,234.32
May 19, 2009	\$23,487.10	May 1, 2009	\$23,487.10
May 22, 2009	\$14,343.90	May 6, 2009	\$14,343.90
May 26, 2009	\$3,712.50	May 8, 2009	\$3,712.50
May 26, 2009	\$9,532.35	May 8, 2009	\$9,532.35
June 1, 2009	\$18,482.76	May 14, 2009	\$18,482.76
June 9, 2009	\$56,558.97	May 22, 2009	\$56,558.97
June 23, 2009	\$6,727.50	June 5, 2009	\$6,727.50
June 29, 2009	\$1,067.75	June 12, 2009	\$1,067.75

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: July 27, 2009

 DARREN WATT
RITCHIE BROS. AUCTIONEERS (AMERICA) INC.

EXHIBIT A
Annual Contract to Auction



ANNUAL CONTRACT TO AUCTION

DATED this 4th day of June, 2008.

BETWEEN:

RITCHIE BROS. AUCTIONEERS (AMERICA) INC., having its Head Office at
4000 Pine Lake Road, in the City of Lincoln, in the State of Nebraska, 68516
Web site - www.rbauktion.com

(the "Auctioneer")

AND:

OF THE FIRST PART

Building Materials Holding Corporation, having a place of business at 720 Park Blvd.,
Suite 200 in the City of Boise, in the State of Idaho, 83712.

Telephone No. 208-331-4300
Fax No. 208-331-4366
E-Mail Address: Website - www.bmho.com

(the "Owner")

OF THE SECOND PART

TERMS AND CONDITIONS OF THIS CONTRACT

Agreement

For valuable consideration, the above parties enter into this Contract (the "Contract") which sets out their respective rights, obligations and undertakings regarding the sale by unreserved public auction of all those items described on Exhibit "A" attached hereto (the "Equipment").

After execution, and upon Owner completing a copy of the attached Exhibit "A" listing the Equipment and forwarding it by fax or otherwise to the Auctioneer's office located in Olympia, Washington (regardless of sale location) (Phone 360-956-1500 - Fax 360-956-1508) there shall be a binding Contract between the parties, subject to the terms and conditions contained herein. Such notification shall be received by the Auctioneer no later than fifteen (15) days prior to the scheduled sale date. If advertising of specific pieces is requested in the Auction Brochure, the Auctioneer shall receive a minimum of thirty (30) days notice.

SECTION 1: AUCTIONEERS' OBLIGATIONS AND RESPONSIBILITIES

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Initials

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- 1.01 Sale Site and Date** – The Auctioneer shall, as agent of Owner, offer the Equipment for sale at unreserved public auction at various locations throughout the United States of America and on various dates for the period commencing as of the date hereof and ending December 31, 2008 or as extended pursuant to paragraph 4.24 below. Prior to offering the vehicles for sale, the Auctioneer will remove any logos or other identification of Owner from the vehicles.
- 1.02 Payment** – The Auctioneer shall mail to Owner within twenty-one (21) days after the auction, the amount due and owing to Owner from monies collected from the sale of the Equipment after making all deductions permitted under this Contract. The Auctioneer shall provide with each payment a detailed schedule of the vehicles sold and the price paid for each vehicle.
- 1.03 Commission** – The Auctioneer shall be entitled, at the time of the auction, to a commission based on the gross sale price of the Equipment or any part thereof, as follows:
- (a) Nine & one-half percent (9.5%) for any lot in excess of \$2,500.00; and
 - (b) for any lot realizing \$2,500.00 or less, fourteen and one-half percent (14.5%), with a minimum fee of \$100.00 per lot.
- 1.04 Other**
- (a) allow Owner access to records concerning the sale of the Equipment at the auction;
 - (b) supervise the preparation and organization of the auction;
 - (c) provide auctioneers and accountants required for an auction of this type;
 - (d) ensure on-site food catering services are available to those in attendance at the auction;
 - (e) provide listing catalogs of the lots offered for sale to potential buyers at the auction; and
 - (f) collect and remit State and local sales tax arising upon the sale of the Equipment at the auction.
 - (g) Include in any sale documents or advertising of the sale that all vehicles are being sold "as is" with no warranties of any kind.
- 1.05 Sale Site** – provide, at no cost to Owner, a suitable site for the conduct of the auction.

SECTION 2: OWNER'S REPRESENTATIONS AND WARRANTIES

2.01 Title and Condition

Owner represents and warrants that:

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- (a) the Equipment is, and on the date of the auction will be, owned by Owner free and clear of any and all registered and unregistered liens, security interests, tax obligations or other encumbrances or contrary claims whatsoever, except as set out in the appropriate Exhibit "A", the form of which is attached hereto;
- (b) Owner is solvent and has not made any assignment, proposal or other proceeding for the benefit of its creditors;
- (c) the description of the Equipment is accurately set forth on Exhibit "A" attached;
- (d) the offering for sale, advertising or selling of the Equipment will not contravene or infringe upon any patent, copyright, trademark, agreement or similar right of any third party;
- (e) Owner and its signatories are duly authorized to enter into this Contract.

SECTION 3: OWNER'S OBLIGATIONS AND RESPONSIBILITIES

3.01 Refurbishing - The Owner shall:

- (a) paint, clean and refurbish, prior to the auction, the Equipment to a standard acceptable to the Auctioneer. Should the Auctioneer organize and pay for painting, cleaning or refurbishing any part of the Equipment, the Auctioneer shall be reimbursed for these costs plus ten percent (10%) provided that the total cost shall not exceed that amount set out on the relevant Exhibit "A" without authorization from Owner, and
- (b) reimburse the Auctioneer for the cost of fuel and batteries as the Auctioneer deem necessary for demonstration and sale of the Equipment.

3.02 Delivery - The Owner shall deliver the Equipment, at Owner's cost, to the auction site no later than fifteen (15) days prior to the scheduled auction:

- (a) with adequate fuel and batteries and starting at the key;
- (b) free of hazardous materials other than normal operating fuels, oils and lubricants; and

together with all documents evidencing Owner's title, and/or necessary to transfer title, to the Equipment, properly endorsed.

All vehicles shall be sold "as is" with no warranties of any nature or kind.

Owner hereby assigns Power of Attorney to the Auctioneer for the limited purpose of executing on Owner's behalf, all documents required to transfer title to, and permit registration or ownership of, any part of the Equipment by the purchaser thereof.

3.03 Searching and Title Documents

- (a) The Owner authorizes the Auctioneer to conduct searches, at Owner's cost, or use other means available, as deemed necessary by the Auctioneer for the disclosure of liens and encumbrances, and contact creditors to determine amounts claimed against the Equipment, however in no case shall the Auctioneer have a duty to conduct such searches, nor be responsible for the result thereof;

- (b) The Owner shall pay a document administration fee of \$65 per unit for each item of Equipment requiring title or registration documents.

3.04 Risk of Loss, Insurance

- (a) The Owner shall be responsible for loss or damage to the Equipment, other than loss or damage arising as a result of the negligence of the Auctioneer, its agents or employees, until the earliest of:
- the removal of the Equipment from the auction site by the purchaser; or
 - receipt by Owner of all proceeds from the sale of the Equipment; and
- (b) The Owner shall insure the Equipment, with the Auctioneer as additional insured as their interest may appear, to its fair market value against all perils so that in the event of damage to, or destruction of, the Equipment or any part thereof, all insurance proceeds shall be credited to the gross proceeds of the auction and payment made to the Auctioneer forthwith for all deductions permitted by this Contract.

3.05 Indemnity – The Owner shall indemnify and save the Auctioneer harmless against all claims, demands, suits, actions, causes of action, damages, costs or charges arising from:

- encumbrances against or defects in title to, or taxes or duties payable in respect of, the Equipment or any part thereof;
- inaccuracies in the description or condition of the Equipment set forth in Exhibit "A"
- hazardous materials associated with the Equipment or contamination resulting from any leakage, spills, or malfunction of the Equipment;
- taxes or duties payable in respect of the Equipment;
- deficiencies in the provision of documents required for the purpose of titling or registering any part of the Equipment by any purchaser thereof; and
- any deficiency in compliance with EPA rules or regulations.

3.06 No Buybacks, Unreserved Auction Sale – The Owner shall not bid, directly or indirectly, nor allow any other person to bid on Owner's behalf, by agency or otherwise on the Equipment or any part thereof at the auction.

Owner acknowledges auctions are unreserved and the Auctioneer shall have no obligation or duty to withdraw the Equipment or any part thereof from the auction sale or to cancel the auction. The Equipment shall be sold to the highest bidder on the date of the auction.

3.07 No Guarantee – The Owner acknowledges that there is no guarantee whatsoever as to the gross proceeds to be realized from the sale of the Equipment at auction.

3.08 Specific Performance – The Owner shall not withdraw the Equipment or any part thereof from the auction sale. If Owner is in breach of this provision within forty (40)

days prior to the auction, then in addition to any other remedies set out in this Contract, the parties hereto agree:

- (a) the damages to the Auctioneer's business reputation and customer relations are not readily ascertainable,
- (b) available remedies at law are not adequate in the event of breach, and
- (c) the Auctioneer may not be made whole solely by monetary recompense;

therefore, the Auctioneer may elect, at its sole option, to obtain an order for specific performance of this Contract and Owner hereby agrees it will not object to such action.

3.09 Other - The Owner shall:

- (a) comply with all legislation, regulations, orders and requirements of any authority of competent jurisdiction relating to the sale of the Equipment; and
- (b) be responsible for the payment of any tax or duty whatsoever that may legally be construed as being the responsibility of Owner.

SECTION 4: MUTUAL AGREEMENTS

It is mutually agreed and understood between the parties hereto that:

4.01 Timeliness - Time is of the essence of this Contract.

4.02 Waiver - A waiver by either party of any breach of any of the provisions herein shall be limited to such particular instance and shall not operate as a waiver of, or be deemed to waive, any other or future breaches of the same or any other provisions hereof.

4.03 Legal Costs - Should either party be required to participate in any action or proceeding in respect of this Contract, the prevailing party shall be entitled to recover all costs incurred, including all attorney fees.

4.04 Prohibition of Pre-Sale - Neither the Auctioneer nor the Owner shall sell or offer for sale any part of the Equipment prior to the auction without the written permission of the other party.

4.05 Default by Owner

If:

- (a) Owner withdraws or fails to timely deliver the Equipment or any part thereof or any documents required hereunder, or if the auction sale does not occur as a result of the actions or inaction of Owner; or
- (b) Owner, directly or indirectly, bids or permits another to bid on Owner's behalf or for the Owner's benefit, by agency or otherwise, on the Equipment or any part thereof at the auction; or
- (c) Owner's representations and warranties set out in Section 2 hereof are not true, complete and correct in all respects;

then:

- (d) commissions shall be payable to the Auctioneer upon demand, based upon the fair market value of any withdrawn or undelivered parts of the Equipment as if they had been sold;
- (e) any advances made by the Auctioneer to Owner together with accrued interest shall become due and repayable immediately; and
- (f) Owner will upon demand, reimburse the Auctioneer for all out-of-pocket expenses incurred in preparation for the auction.

In the event Owner is in violation of subparagraph 4.05 (b), in addition to any other rights or remedies the Auctioneer may have under this Contract, the Auctioneer shall, at its sole discretion, have the right to sell or re-sell the equipment by public or private sale and Owner shall pay to the Auctioneer as liquidated damages in addition to all other amounts due hereunder, an amount equal to twenty percent (20%) of the proceeds realized from such sale or resale.

4.06 Auctioneer's Right to Withdraw From Contract / Rescind Sale – Notwithstanding any other provisions of this Contract, the Auctioneer shall have the right, at its discretion, to (i) withdraw from this Contract and its obligations hereunder shall be unenforceable by the Owner, or (ii) rescind the sale of the Equipment to a purchaser in whole or in part, if:

- (a) there are liens, charges, encumbrances or any contrary claims against the Equipment in addition to those set out in the appropriate Exhibit "A";
- (b) there is insufficient equity in the Equipment or any part thereof to pay the Auctioneer's commission and advances after title is cleared; or
- (c) the Owner is in breach of any of its representations or warranties hereunder.

If, pursuant to this section, the Equipment or any part thereof is not sold at the auction, such equipment shall be deemed to have been withdrawn by Owner and the provisions of subparagraph 4.05(d), (e) and (f) shall apply.

4.07 Repayment of Deficiency – Notwithstanding any other provision of this Contract, if the Equipment or any part thereof is sold by the Auctioneer, any deficiency resulting from the lack of Owner's equity therein shall be paid to the Auctioneer upon demand.

4.09 Use of Equipment – Owner authorizes the Auctioneer to utilize the Equipment in setting up the auction.

4.10 Lots – The Auctioneer shall divide the Equipment into such lots as it may in its absolute discretion deem desirable for sale at the auction. The Auctioneer shall not be liable for any loss or damages claimed in respect of the manner in which the Equipment is divided into lots nor in respect of any failure to divide the Equipment into lots.

4.11 Small Lot Administrative Fee – The Owner acknowledges that the Auctioneer may charge Purchasers of lots selling for \$2,500.00 or less an administrative fee equal to 10% of the value of the lot.

4.12 Collection of Proceeds – The Auctioneer shall collect the full proceeds from the sale of the Equipment and Owner assigns to the Auctioneer:

- (a) the amount required to discharge and satisfy all charges, liens, claims and encumbrances in respect of the Equipment; and
- (b) all amounts payable to the Auctioneer hereunder, including commission and any advances, together with interest thereon which shall be repayable at the time of the sale.

4.13 Uncollected Proceeds – The Auctioneer may, as it deems necessary, re-auction any part of the Equipment not sold or paid for at the auction and Owner acknowledges that no monies shall be payable by the Auctioneer for any part of the Equipment until it has been paid for in full by the purchaser thereof.

4.14 Other Consignments – Equipment belonging to other owners may be sold at the auction.

4.15 Owner's Name – Owner authorizes the Auctioneer to use Owner's name, trademark and logo in advertising the auction.

4.16 Entire Agreement – This Contract:

- (a) constitutes the entire agreement between the parties; and supersedes and takes the place of all prior contracts, understandings, representations or warranties;
- (b) may not be amended except in writing. There are no understandings, agreements, promises, terms, conditions or warranties expressed or implied, whether orally or by law, statute or trade usage, other than as specifically stated herein; and
- (c) shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

4.17 Internet Bidding – The Auctioneer may in its sole discretion, offer certain lots for sale, in conjunction with its public unreserved auction, to Internet bidders, using its trademarked "rbauctionBid-Live" service. The Auctioneer shall use its best effort to ensure that for any sale at which "rbauctionBid-Live" is advertised it is available, however at any given sale

- (a) only those lots which the Auctioneer deems appropriate for "rbauctionBid-Live" shall be offered on the internet, and
- (b) certain circumstances concerning the Internet and the technology in use are beyond the Auctioneer's control, and "rbauctionBid-Live" may not be available at any given time or auction.

Therefore Owner agrees that the Auctioneer shall be held harmless from any claims, costs or causes of action arising from the Auctioneer's failure to offer "rbauctionBid-Live" at any time.

4.18 Force Majeure – The Auctioneer shall not be liable for damages caused by delay or failure to perform the Auctioneer's obligations under this Contract due to fires, strikes,

floods, adverse weather which may injure persons or damage property, acts of God or lawful acts of public authorities.

- 4.19 **Exclusive** – for the duration of this Contract all equipment sold at Auction by Owner will be consigned and sold exclusively using the service of the Auctioneer. In consideration of this exclusive right, the Auctioneer has given Owner a preferential commission rate. Should Owner withdraw from this agreement, equipment sold shall be subject to the Auctioneer's standard negotiated commission rates.
- 4.20 **Jurisdiction** – This Contract is subject to, and any dispute arising hereof will be determined by a court of competent jurisdiction in, and under the laws of the State of Idaho excepting only those in respect of fair market value of the Equipment which shall be submitted to binding arbitration pursuant to the laws in respect of commercial arbitration of that State.
- 4.21 **Notice** – Any notice given hereunder shall be delivered, either by facsimile or by prepaid registered mail to the parties at the address set out on page 1.
- 4.22 **Headings** – All headings in this Contract are for reference purposes only and this Contract shall be interpreted without reference to such headings.
- 4.23 **Facsimile** – Receipt by the Auctioneer via facsimile of a signed copy of this Contract shall, upon acceptance by the Auctioneer, be effective and binding on both parties.
- 4.24 **Renewal** – This Contract shall automatically renew for a further one year period at the end of the period set out in Clause 1.01, and each successive renewal period thereafter, unless Owner or Auctioneer provides the other with written notice of intent to withdraw thirty (30) days prior to expiry.
- 4.25 **Privacy** – Information provided in this Contract will be retained by the Auctioneer in accordance with its formal Privacy Statement, provided on the Auctioneer's website at www.rbauction.com.
- 4.26 **Owner's Bank Details** – All funds due and owing to Owner hereunder shall be remitted to the following account
Account holder name (must be exactly as the bank has it)
Bank Name: BMHC - Concentration
Bank Address: Wells Fargo Bank
Account Number: 420 Montgomery Street, San Francisco, CA 94104
Bank ABA Code: 4518-014824
Remittance email address: 1210 0024 8
blee@bmhc.com
kailer@bmhc.com

[Handwritten initials]

4.27 Approval by Auctioneer - This entire Contract is subject to the approval of Auctioneer's head office and shall be null and void and of no further force or effect if the Chief Operating Officer of the Auctioneer so notifies Owner within twenty days from the date hereof.

IN WITNESS WHEREOF this Contract has been executed by the parties hereto as of the date first above written.

(If the Owner is a Corporation)

Building Materials Holding Corporation
(Name of Owner)

Per: [Signature]
(Signature)

G. Brian Gable
(Print name of person signing)

Cust. #:

(If the Owner is not a Corporation)	
SIGNED & DELIVERED	
By Owner in the presence of	
_____	_____
(Signature of Witness)	(Signature of Owner)
_____	_____
(Print Name of Witness)	(Print Name of Owner)

Address	

Occupation	Cust. #:

RITCHIE BROS. AUCTIONEERS (AMERICA) INC.

Per. [Signature]
(Signature) Rob Giroux
(Print Name)

ANNUAL US ST COM R01 08

Initials STB KL

EXHIBIT "A"

Ritchie Bros. Auctioneers (America) Inc.
3901 Faulkner Drive, Lincoln, NE 68516-0429
Phone (402) 421-3631 Fax (402) 421-1738

RE: CONTRACT TO AUCTION BETWEEN RITCHIE BROS. AUCTIONEERS (AMERICA) INC. AND Building Materials Holding Corporation, signed _____, 20____ and renewals thereto.

Pursuant to the "Terms and Conditions" of the above contract, we hereby consign to your auction to be held on _____, 20____ at _____, the equipment listed below. Delivery of the equipment shall occur FIFTEEN (15) days prior to the auction. You are authorized to spend an amount of _____ the Dollars (\$ _____) for make ready and sale preparation of the equipment. We agree that if advertising in the Auction Brochure of specific pieces is required, we will give a minimum of THIRTY (30) days notice of equipment to be sold.

EQUIPMENT LIST
Year Make

Model S/N

SEE ATTACHED LIST

(Name of Owner)

(Street Address or Box #)

(City) (State) (Zip)

Phone : _____
Fax : _____

(COMMISSION - _____ %)

OWNER CODE: _____

Min Amt	Min %	Min Com	Doc Fee

Cust. #: _____

Per _____

Print Name : _____

RBA TERRITORY MANAGER: _____

***** Note: Keep separate copy of this page and use for each consignment.**

EXHIBIT "A"

Ritchie Bros. Auctioneers (America) Inc.
4000 Pine Lake Road, Lincoln, NE 68516
Phone (402) 421-3631 Fax (402) 421-3650

**RE: ANNUAL CONTRACT TO AUCTION BETWEEN RITCHIE BROS. AUCTIONEERS
(AMERICA) INC. AND BUILDING MATERIALS HOLDING CORPORATION DATED
JUNE 4, 2008 and renewals thereto.**

Pursuant to the "Terms and Conditions" of the above contract, we hereby consign to your auction to be held on _____ at _____, the equipment listed below. Delivery of the equipment shall occur FIFTEEN (15) days prior to the auction. You are authorized to spend an amount of (TBD) _____ Dollars (\$) for make ready and sale preparation of the equipment. We agree that if we require advertising of any specific pieces in a particular auction brochure, we will give a minimum of THIRTY (30) days notice of equipment to be sold.

EQUIPMENT LIST

<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>S/N</u>	<u>Description</u>	<u>Owner ID No</u>
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SEE ATTACHED SCHEDULE A

(Copies of front & back of Titles for all titled vehicles are attached)

BUILDING MATERIALS HOLDING CORPORATION

720 Park Blvd
Boise, ID 83712
Phone: (208) 331-4300
Fax: (208) 331-4366

COMMISSION: 9.50% LOTS OVER \$2,500
14.50% LOTS \$2,500 OR LESS
\$100.00 MIN/LOT

OWNER CODE: T67

Customer # 5590332

Per _____
Brian Gable

RBA TERRITORY MANAGER: Lloyd Merrill