

Instructions for Bidder Qualification

AUCTION PURSUANT TO ORDER OF THE U.S. BANKRUPTCY COURT

DMCC 450 Charles Court, LLC | Case No. 6:23-bk-01977 GER

DMCC 7347 Ridge Road, LLC | Case No. 6:23-bk-01979-GER

Thursday, January 11th, 2024 at 11:00 AM ET

The following instructions are to help guide you in becoming a Qualified Bidder for the Auction. The written bid and the Minimum Deposit (for each Property) are due by **5:00 PM Eastern Time on Friday, December 29th, 2023** (the “Bid Deadline”) to the Debtor’s bankruptcy counsel, Latham, Luna, Eden & Beaudine, LLP, 201 S. Orange Avenue, Suite 1400, Orlando, Florida 32801; Attn: Justin M. Luna, Esq., jluna@lathamluna.com. Please also refer to the attached Orders Approving Sale and Bid Procedures which contain the Court Approved Bidding Procedures as Exhibit “A.” ****Please note that a separate written bid and Minimum Deposit are due for each Property should an interested party choose to become a qualified bidder for each Real Property Asset.**

A Bidder that desires to make a bid shall deliver copies of its bid to the Debtor’s bankruptcy counsel prior to the Bid Deadline, both listed above. Each written bid shall be an irrevocable offer and state/include the following terms within:

- The bidder offers a starting bid of at least \$1,000,000.00 (the “Initial Bid”) for the Property, to consummate a Sale.
- The written bid must confirm that the offer shall remain open and irrevocable until the closing of a Sale to the Successful Bidder or Next Highest Bidder (both as defined within the Bidding Procedures).
- The bidder must enclose a copy of the proposed bid.
- The bidder must enclose a certified or bank check, wire transfer, or letter of credit reasonably acceptable to the Debtor, c/o Latham Luna Eden & Beaudine Trust Account, equal to Two Hundred and Fifty Thousand Dollars and No Cents (\$250,000.00) (the “Minimum Deposit”). *Please contact Debtor’s Counsel for a copy of wire instructions.
- The bidder must provide a detailed written demonstration with account statements, of the financial wherewithal to make a bid in excess of the Initial Bid and to pay such bid in full, without financing, within twenty-four (24) hours of making such bid.
- The written bid shall provide for the purchase of all Assets and such purchase may not have any conditions to close not present in the Purchase and Sale Agreement provided by Debtor.
- The written bid shall not be conditioned on due diligence or financing.
- The written bid shall not request or entitle the bidder to any break-up fee or expense reimbursement.
- The written bid shall disclose the identity of each person and/or entity bidding or participating in connection with a bid, including any connections to the Debtor and the terms of those connections.
- The written bid must contain written evidence that the Bidder has the corporate authority to consummate the Sale.
- The written bid must contain an acknowledgement that the Bidder does not require further due diligence and has relied upon its own independent review in making its bid.

All bids will be considered, but the Debtor reserves its right to reject any or all bids. In the event a conflict exists between these Instructions and the Bankruptcy Court approved Bid Procedures, the terms of the Bankruptcy Court approved Bid Procedures shall govern and control.

Despite the above requirements for submitting qualified bids, those creditors with duly perfected, secured claims against either Property shall automatically be deemed as qualified bidders prior to the Auction without having to satisfy the bid requirements set forth herein, and further shall have the right to assert a credit bid in accordance with Section 363(k) of the Bankruptcy and as otherwise set forth in the attached Orders Approving Sale and Bid Procedures.

The Auction with respect to each Property, shall be held at a place determined by the Debtor. The Debtor will provide notice to each Qualified Bidder of the place of the Auction. The Auction will be held on Thursday, January 11th, 2024 at 11:00AM Eastern Time.

The amount of the Successful Bid, minus the Minimum Deposit, shall be due within twenty-four (24) hours of the conclusion of the Auction, for each Property, in escrow. A Sale Hearing ("Sale Hearing") shall be held on Friday, January 19th, 2024 at 10:00 AM Eastern Time (or such other time as the Bankruptcy Court may establish) at the United States Bankruptcy Court for the Middle District of Florida (Orlando Division), for final determination of the Successful Bidder authorizing the sale and closing of the Real Property and to otherwise give final approval of the sale of the Real Property free and clear.

ORDERED.

Dated: December 05, 2023



Grace E. Robson
United States Bankruptcy Judge

(Note: A faint circular seal of the United States Bankruptcy Court, Middle District of Florida, Orlando Division is visible in the background behind the signature.)

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

DMCC 450 CHARLES COURT, LLC

**CASE NO. 6:23-bk-01977-GER
CHAPTER 11**

Debtor.

_____ /

**ORDER APPROVING SALE AND BID PROCEDURES
AND SCHEDULING SALE HEARING**

THIS CASE came on for hearing on November 28, 2023 (the “Hearing”) on the motion of **DMCC 450 CHARLES COURT, LLC** (the “Debtor”), for the entry of: (i) an order approving the bid and sale procedures for the sale of the real property located at 450 St Charles Court, Lake Mary, FL 32746 (the “Real Property”) free and clear of liens, claims, interests and encumbrances; and (ii) entry of an order approving the sale of the Property to the highest bidder (the “Motion”)(Doc. No. 85). Upon consideration of the Motion, the argument of the parties presented at the Hearing, and noting no objection to the Motion, it is

ORDERED:

1. The Motion's request for approval of the sale and bid procedures is **GRANTED** and a further hearing on the remaining relief sought is scheduled for **January 19, 2024 at 10:00 a.m. EST** and will be held in the United States Bankruptcy Court for the Middle District of Florida (Orlando Division) located at 400 W. Washington Street, 6th Floor, Courtroom 6D, Orlando, Florida 32801 (the "Final Sale Hearing").

2. The Bid and Sale Procedures for the sale of the Property are approved as set forth herein. The request for Rule 6004(h) waiver is hereby granted. The Court reserves jurisdiction to determine if the successful bidder is entitled to Section 363(m) protection at the final sale hearing.

3. The Debtor shall file a notice of Successful Bidder and Next Highest Bidder at Least two (2) days prior to the Final Sale Hearing. Additionally, any accrued and unpaid United States Trustees fees shall be paid at closing as a closing cost.

4. The Bid Procedures attached to this Order as **Exhibit "A"** are approved. Any person or entity wishing to bid for the Real Property shall follow the procedures outlined therein.

4. The Court shall conduct a hearing on **January 19, 2024 at 10:00 a.m. EST** at the United States Bankruptcy Court for the Middle District of Florida (Orlando Division) 400 W. Washington Street, 6th Floor, Courtroom 6D, Orlando, Florida 32801, for final determination of the Successful Bidder authorizing the sale and closing of the Real Property and to otherwise give final approval of the sale of the Real Property free and clear.

* * *

Attorney Justin M. Luna, Esq. is directed to serve a copy of this order on interested parties and file a proof of service within three (3) days of entry of the order.

EXHIBIT “A”

BIDDING PROCEDURES FOR THE ASSETS

BID PROCEDURES

Set forth below are the bidding procedures (the “Bid Procedures”) to be employed with respect to the selection of the highest and best bids for the sale by **DMCC 450 CHARLES COURT, LLC** (“Charles Court”) (the “Seller”) of the real property located at 450 St Charles Court, Lake Mary, FL 32746 (the “Property”). As set forth in more detail below, the Seller will conduct an auction (the “Auction”) for the sale (the “Sale”) of the Property if one or more Qualified Bids (as defined below) are timely submitted, which Sale is subject to the Order approving the sale of the Property (“Sale Order”)(Doc. No.).

BID DEADLINE

The deadline for submitting bids by a Bidder shall be December 29, 2023 at 5:00 p.m. (Eastern Time) (the “Bid Deadline”). The Bid Deadline does not apply to current lienholders (i) Seminole County Tax Collector, (ii) Axiom Bank, N.A., and (iii) EB DMCC Loan, LLC (the “Lien Holders”).

Prior to the Bid Deadline, a Bidder that desires to make a bid shall deliver written copies of its bid to the Debtor’s bankruptcy counsel, Latham, Luna, Eden & Beaudine, LLP, 201 S. Orange Avenue, Suite 1400, Orlando, Florida 32801; Attn: Justin M. Luna, Esq., jluna@lathamluna.com (the “Notice Parties”).

QUALIFIED BID REQUIREMENTS

A bid must be a written irrevocable offer (i) stating that the bidder offers as a starting bid of at least \$1,000,000.00 (the “Initial Bid”), for the real property constituting the Assets, to consummate a Sale; (ii) confirming that the offer shall remain open and irrevocable until the closing of a Sale to the Successful Bidder or the Next Highest Bidder (both as defined below); (iii) enclosing a copy of the proposed bid; and (iv) enclosing a certified or bank check, wire transfer, or letter of credit reasonably acceptable to the Debtor, c/o Latham Luna Eden & Beaudine Trust Account, equal to Two Hundred and Fifty Thousand Dollars and No Cents (\$250,000.00)(the “Minimum Deposit”). No liens of any creditors of the Debtor shall attach or be deemed to attach to the Minimum Deposit until and unless a Sale to the bidder making the Minimum Deposit occurs or the bidder forfeits its deposit in accordance with the procedures set forth herein. All bids will be considered, but the Debtor reserves its right to reject any or all bids.

All bids must be accompanied by the Minimum Deposit, which funds will be held in trust by Latham, Luna, Eden & Beaudine, LLP, and accompanied by a detailed written demonstration of the prospective buyer's financial wherewithal to make a bid in excess of the Initial Bid and to pay such bid in full, without financing, within twenty-four (24) hours of making such bid. Such declaration must include documentary exhibits and evidence (e.g. account statements) supporting such declaration of financial wherewithal. The winning bid must be paid in full within twenty-four (24) hours after the date on which the Auction was held.

To be a Qualified Bid, any bid for the Assets must:

- (a) be a written irrevocable offer from a bidder (i) stating that the bidder offers to consummate a Sale; (ii) confirming that the offer shall remain open and irrevocable until the closing of a Sale to the Successful Bidder or the Next Highest Bidder (as defined below); (iii) enclosing a copy of the proposed bid; and (iv) enclosing a certified or bank check, wire transfer, or letter of credit reasonably acceptable to the Debtor equal to the Minimum Deposit to the Debtor's counsel at the address listed herein by the Bid Deadline;
- (b) provide for the purchase of all of the Assets and such purchase may not have any conditions to close not present in the Purchase and Sale Agreement provided by the Debtor (whichever is applicable), unless waived by the Debtor;
- (c) not be conditioned on due diligence or financing;
- (d) not request or entitle the subsequent bidder to any break-up fee or expense reimbursement;
- (e) disclose the identity of each person and/or entity bidding for the Assets or participating in connection with a bid, including any connections with the Debtor, its insiders or the Bondholders of the Debtor and the terms of any such participation;
- (f) contain written evidence that the bidder has the requisite corporate or similar authority to consummate the proposed Sale;
- (g) offer a cash amount set by the Debtor, or other consideration acceptable to the Debtor; and
- (h) be accompanied by an acknowledgement that the Bidder does not require further due diligence and has relied solely upon its own independent review in making its bid.

A bid received from a Bidder that meets the requirements set forth above will be considered a "Qualified Bid," and the highest and best such bid will be determined by the Debtors, subject to Bankruptcy Court approval. All Qualified Bids shall be available for review by any party in interest, subject to the terms of confidentiality set forth in the Order of the Bankruptcy Court approving the Bid Procedures. These Qualified Bid requirements shall not apply to the Lien Holders, whom may submit a credit bid for the secured portion of their allowed claim, as indicated below.

AUCTION

If at least (a) one Qualified Bid is received by the Bid Deadline or (b) a Lien Holder gives written notice to Debtor's counsel of record of its intent to make a credit bid for the secured portion of its allowed claim by no later than 5:00 PM on January 10, 2024, the Auction with respect to the Property shall take place designated by the Debtor as soon as practicable and by no later than January 15, 2024. The Debtor may extend the Auction deadline and/or adjourn, continue or suspend the Auction and/or the Sale Hearing, only after approval by the Bankruptcy Court and serving such notice on all Auction Notice Parties. The Debtor will provide appropriate notice to

each of the bidders and other invitees of the date, time, and place for the Auction.

A party may participate at the Auction only if (a) it is a bidder who has submitted a Qualified Bid, or (b) is a Lien Holder that has timely submitted a credit bid for the secured portion of its allowed claim by 5:00 PM on January 10, 2024. The Debtor will evaluate all Qualified Bids and credit bids received and may select the Qualified Bid or credit bid that reflects the highest and best offer, as determined by the Debtor as the “Starting Auction Bid” for the Real Property.

The bidding at the Auction shall start at the Starting Auction Bid as disclosed by the Debtor to all bidders prior to commencement of the Auction. The bidding will continue in incremental amounts of not less than \$50,000 until there is a Successful Bid (as defined below) and a Next Highest Bid (as defined below). At the Auction, Bidders will be permitted to increase their bids. All bids subsequent to the Starting Auction Bid, whether oral or written, shall be deemed to constitute valid modifications or amendments to the signed contract previously submitted by such bidder.

Prior to concluding the Auction, the Debtor shall: (i) review each Qualified Bid or credit bid on the basis of its financial and contractual terms and the factors relevant to the sale process and the best interests of the Debtor’s estate and creditors and (ii) determine which bid is the highest and best bid (the “Successful Bid”) and the next highest and best offer after the Successful Bid (the “Next Highest Bid”).

At or prior to the Auction, the Debtor may adopt other rules for the Auction that, in their reasonable judgment, will better promote the goals of the Auction. All such rules shall be fully disclosed to all bidders and will provide that the procedures must be fair and open. Nothing herein shall prohibit the Debtor from meeting privately with any bidders to negotiate the terms of the bids.

Immediately upon selection of the Successful Bid, the bidder making the Successful Bid (the “Successful Bidder”) shall provide the Debtor with cleared funds in the amount of the Successful Bid (minus the mandatory Minimum Deposit held by counsel for the Debtor consistent with these procedures) by 4:00 p.m. on the day of the sale with such available funds to be placed in escrow. To the extent the Successful Bidder is a Lien Holder, such Lien Holder shall provide the Debtor with cleared funds of \$25,000 (as a carve out earmarked for the Receiver and estate, in an amount agreed to by said parties), above and beyond their Successful Bid, by January 22, 2024.

Any bid submitted after the conclusion of the Auction shall not be considered for any purpose unless an order of the Bankruptcy Court is entered directing that such bid be considered. Neither the Debtor nor any other person shall have any obligation to seek such an order from the Bankruptcy Court.

ACCEPTANCE OF THE SUCCESSFUL BID AND CLOSING ON SALE

Following the Auction or a determination that no Auction is required as set forth herein, the Successful Bidder and Debtor are authorized to close on the Sale of the Real Property, which closing shall occur by no later than January 31, 2024. If a timely objection to the Auction Notice is received, the Debtor will present the results of the Auction to the Bankruptcy Court at a duly noticed hearing, at which the Debtor will seek certain findings from the Bankruptcy Court regarding the Auction, including, among other things, that (i) the Auction was conducted in a fair and reasonable manner, (ii) the Successful Bidder was selected in accordance with the Bid Procedures, and (iii) consummation of the Sale contemplated by the Successful Bid will provide the highest and best value for the Property and is in the best interests of the Debtor and its estate.

In the event that, for any reason, the Successful Bidder fails to close the Sale contemplated by its Successful Bid, then, without notice to any other party or further Bankruptcy Court order, the Debtor, shall be authorized to close the Sale with the Bidder that submitted the Next Highest Bid (the “Next Highest Bidder”) in accordance with the foregoing procedures.

RETURN OF MINIMUM DEPOSIT

The Minimum Deposits of all Bidders other than the Successful Bidder and the Next Highest Bidder required to submit a deposit under these Bid Procedures shall be returned upon or within three (3) business days after the Auction. The Minimum Deposit of the Successful Bidder and the Next Highest Bidder shall be held until the closing of the Sale and the deposit of the Successful Bidder, or the Next Highest Bidder if the Property is sold to it, will be applied to the amount of the Successful Bid.

Notwithstanding the above, if the Successful Bidder (or the Next Highest Bidder, if applicable) fails to close the Sale, such party’s Minimum Deposit shall be forfeited and be considered part of the Debtors’ assets subject to administration.

Except as otherwise provided in the Purchase Agreement, the Seller will not be required to maintain any Minimum Deposit in an interest bearing account, but any interest earned on any Minimum Deposit will be remitted to the appropriate Bidder if the Minimum Deposit is returned to the Bidder pursuant to the above or applied to the amount of the Successful Bid. Minimum Deposits may only be used in accordance with the terms of these Bidding Procedures. Neither the Seller nor the Purchaser shall have any liability with respect to any Minimum Deposit.

PAYMENT OF BROKER AND RELATED FEE

There is no broker payment permitted as seller’s broker, although a buyer’s premium of 6% shall be paid by the purchaser at closing.

RESERVATION OF RIGHTS

Except as otherwise provided herein, the Debtor reserves the right to (i) determine which Bids are Qualified Bids; (ii) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (iii) reject any bid that is (a) inadequate or insufficient or (b) not in conformity with the requirements of the Bid Procedures Order or the requirements of the Bankruptcy Code.

JURISDICTION

The Bankruptcy Court shall retain exclusive jurisdiction over any matter or dispute relating to the sale of the Real Property, the Bidding Procedures, the Auction and/or any other matter that in any way relates to the foregoing.

* * *

ORDERED.

Dated: December 05, 2023



Grace E. Robson
United States Bankruptcy Judge



**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

DMCC 7347 RIDGE ROAD, LLC

**CASE NO. 6:23-bk-01979-GER
CHAPTER 11**

Debtor.

_____ /

**ORDER APPROVING SALE AND BID PROCEDURES
AND SCHEDULING SALE HEARING**

THIS CASE came on for hearing on November 28, 2023 (the “Hearing”) on the motion of **DMCC 7347 RIDGE ROAD, LLC** (the “Debtor”), for the entry of: (i) an order approving the bid and sale procedures for the sale of the real property located at 7347 Ridge Road, Port Richey, Florida 34668 (the “Real Property”) free and clear of liens, claims, interests and encumbrances; and (ii) entry of an order approving the sale of the Property to the highest bidder (the “Motion”)(Doc. No. 83). Upon consideration of the Motion, the argument of the parties presented at the Hearing, and noting no objection to the Motion, it is

ORDERED:

1. The Motion's request for approval of the sale and bid procedures is **GRANTED** and a further hearing on the remaining relief sought is scheduled for **January 19, 2024 at 10:00 a.m. EST** and will be held in the United States Bankruptcy Court for the Middle District of Florida (Orlando Division) located at 400 W. Washington Street, 6th Floor, Courtroom 6D, Orlando, Florida 32801 (the "Final Sale Hearing").

2. The Bid and Sale Procedures for the sale of the Property are approved as set forth herein. The request for Rule 6004(h) waiver is hereby granted. The Court reserves jurisdiction to determine if the successful bidder is entitled to Section 363(m) protection at the final sale hearing.

3. The Debtor shall file a notice of Successful Bidder and Next Highest Bidder at Least two (2) days prior to the Final Sale Hearing. Additionally, any accrued and unpaid United States Trustees fees shall be paid at closing as a closing cost.

4. The Bid Procedures attached to this Order as **Exhibit "A"** are approved. Any person or entity wishing to bid for the Real Property shall follow the procedures outlined therein.

4. The Court shall conduct a hearing on **January 19, 2024 at 10:00 a.m. EST** at the United States Bankruptcy Court for the Middle District of Florida (Orlando Division) 400 W. Washington Street, 6th Floor, Courtroom 6D, Orlando, Florida 32801, for final determination of the Successful Bidder authorizing the sale and closing of the Real Property and to otherwise give final approval of the sale of the Real Property free and clear.

* * *

Attorney Justin M. Luna, Esq. is directed to serve a copy of this order on interested parties and file a proof of service within three (3) days of entry of the order.

EXHIBIT “A”

BIDDING PROCEDURES FOR THE ASSETS

BID PROCEDURES

Set forth below are the bidding procedures (the “Bid Procedures”) to be employed with respect to the selection of the highest and best bids for the sale by **DMCC 7347 RIDGE ROAD, LLC** (“Ridge Road” or “Seller”) of the real property located at 7347 Ridge Road, Port Richey, Florida 34668 (the “Property”). As set forth in more detail below, the Seller will conduct an auction (the “Auction”) for the sale (the “Sale”) of the Property if one or more Qualified Bids (as defined below) are timely submitted, which Sale is subject to the Order approving the sale of the Property (“Sale Order”)(Doc. No.).

BID DEADLINE

The deadline for submitting bids by a Bidder shall be December 29, 2023 at 5:00 p.m. (Eastern Time) (the “Bid Deadline”). The Bid Deadline does not apply to current lienholders (i) Pasco County Tax Collector, (ii) Axiom Bank, N.A., and (iii) EB DMCC Loan, LLC (the “Lien Holders”).

Prior to the Bid Deadline, a Bidder that desires to make a bid shall deliver written copies of its bid to the Debtor’s bankruptcy counsel, Latham, Luna, Eden & Beaudine, LLP, 201 S. Orange Avenue, Suite 1400, Orlando, Florida 32801; Attn: Justin M. Luna, Esq., jluna@lathamluna.com (the “Notice Parties”).

QUALIFIED BID REQUIREMENTS

A bid must be a written irrevocable offer (i) stating that the bidder offers as a starting bid of at least \$1,000,000.00 (the “Initial Bid”), for the real property constituting the Assets, to consummate a Sale; (ii) confirming that the offer shall remain open and irrevocable until the closing of a Sale to the Successful Bidder or the Next Highest Bidder (both as defined below); (iii) enclosing a copy of the proposed bid; and (iv) enclosing a certified or bank check, wire transfer, or letter of credit reasonably acceptable to the Debtor, c/o Latham Luna Eden & Beaudine Trust Account, equal to Two Hundred and Fifty Thousand Dollars and No Cents (\$250,000.00)(the “Minimum Deposit”). No liens of any creditors of the Debtor shall attach or be deemed to attach to the Minimum Deposit until and unless a Sale to the bidder making the Minimum Deposit occurs or the bidder forfeits its deposit in accordance with the procedures set forth herein. All bids will be considered, but the Debtor reserves its right to reject any or all bids.

All bids must be accompanied by the Minimum Deposit, which funds will be held in trust by Latham, Luna, Eden & Beaudine, LLP, and accompanied by a detailed written demonstration of the prospective buyer's financial wherewithal to make a bid in excess of the Initial Bid and to pay such bid in full, without financing, within twenty-four (24) hours of making such bid. Such declaration must include documentary exhibits and evidence (e.g. account statements) supporting such declaration of financial wherewithal. The winning bid must be paid in full within twenty-four (24) hours after the date on which the Auction was held.

To be a Qualified Bid, any bid for the Assets must:

- (a) be a written irrevocable offer from a bidder (i) stating that the bidder offers to consummate a Sale; (ii) confirming that the offer shall remain open and irrevocable until the closing of a Sale to the Successful Bidder or the Next Highest Bidder (as defined below); (iii) enclosing a copy of the proposed bid; and (iv) enclosing a certified or bank check, wire transfer, or letter of credit reasonably acceptable to the Debtor equal to the Minimum Deposit to the Debtor's counsel at the address listed herein by the Bid Deadline;
- (b) provide for the purchase of all of the Assets and such purchase may not have any conditions to close not present in the Purchase and Sale Agreement provided by the Debtor (whichever is applicable), unless waived by the Debtor;
- (c) not be conditioned on due diligence or financing;
- (d) not request or entitle the subsequent bidder to any break-up fee or expense reimbursement;
- (e) disclose the identity of each person and/or entity bidding for the Assets or participating in connection with a bid, including any connections with the Debtor, its insiders or the Bondholders of the Debtor and the terms of any such participation;
- (f) contain written evidence that the bidder has the requisite corporate or similar authority to consummate the proposed Sale;
- (g) offer a cash amount set by the Debtor, or other consideration acceptable to the Debtor; and
- (h) be accompanied by an acknowledgement that the Bidder does not require further due diligence and has relied solely upon its own independent review in making its bid.

A bid received from a Bidder that meets the requirements set forth above will be considered a "Qualified Bid," and the highest and best such bid will be determined by the Debtors, subject to Bankruptcy Court approval. All Qualified Bids shall be available for review by any party in interest, subject to the terms of confidentiality set forth in the Order of the Bankruptcy Court approving the Bid Procedures. These Qualified Bid requirements shall not apply to the Lien Holders, whom may submit a credit bid for the secured portion of their allowed claim, as indicated below.

AUCTION

If at least (a) one Qualified Bid is received by the Bid Deadline or (b) a Lien Holder gives written notice to Debtor's counsel of record of its intent to make a credit bid for the secured portion of its allowed claim by no later than 5:00 PM on January 10, 2024, the Auction with respect to the Property shall take place designated by the Debtor as soon as practicable and by no later than January 15, 2024. The Debtor may extend the Auction deadline and/or adjourn, continue or suspend the Auction and/or the Sale Hearing, only after approval by the Bankruptcy Court and serving such notice on all Auction Notice Parties. The Debtor will provide appropriate notice to

each of the bidders and other invitees of the date, time, and place for the Auction.

A party may participate at the Auction only if (a) it is a bidder who has submitted a Qualified Bid, or (b) is a Lien Holder that has timely submitted a credit bid for the secured portion of its allowed claim by 5:00 PM on January 10, 2024. The Debtor will evaluate all Qualified Bids and credit bids received and may select the Qualified Bid or credit bid that reflects the highest and best offer, as determined by the Debtor as the “Starting Auction Bid” for the Real Property.

The bidding at the Auction shall start at the Starting Auction Bid as disclosed by the Debtor to all bidders prior to commencement of the Auction. The bidding will continue in incremental amounts of not less than \$50,000 until there is a Successful Bid (as defined below) and a Next Highest Bid (as defined below). At the Auction, Bidders will be permitted to increase their bids. All bids subsequent to the Starting Auction Bid, whether oral or written, shall be deemed to constitute valid modifications or amendments to the signed contract previously submitted by such bidder.

Prior to concluding the Auction, the Debtor shall: (i) review each Qualified Bid or credit bid on the basis of its financial and contractual terms and the factors relevant to the sale process and the best interests of the Debtor’s estate and creditors and (ii) determine which bid is the highest and best bid (the “Successful Bid”) and the next highest and best offer after the Successful Bid (the “Next Highest Bid”).

At or prior to the Auction, the Debtor may adopt other rules for the Auction that, in their reasonable judgment, will better promote the goals of the Auction. All such rules shall be fully disclosed to all bidders and will provide that the procedures must be fair and open. Nothing herein shall prohibit the Debtor from meeting privately with any bidders to negotiate the terms of the bids.

Immediately upon selection of the Successful Bid, the bidder making the Successful Bid (the “Successful Bidder”) shall provide the Debtor with cleared funds in the amount of the Successful Bid (minus the mandatory Minimum Deposit held by counsel for the Debtor consistent with these procedures) by 4:00 p.m. on the day of the sale with such available funds to be placed in escrow. To the extent the Successful Bidder is a Lien Holder, such Lien Holder shall provide the Debtor with cleared funds of \$25,000 (as a carve out earmarked for the Receiver and estate, in an amount agreed to by said parties), above and beyond their Successful Bid, by January 22, 2024.

Any bid submitted after the conclusion of the Auction shall not be considered for any purpose unless an order of the Bankruptcy Court is entered directing that such bid be considered. Neither the Debtor nor any other person shall have any obligation to seek such an order from the Bankruptcy Court.

ACCEPTANCE OF THE SUCCESSFUL BID AND CLOSING ON SALE

Following the Auction or a determination that no Auction is required as set forth herein, the Successful Bidder and Debtor are authorized to close on the Sale of the Real Property, which closing shall occur by no later than January 31, 2024. If a timely objection to the Auction Notice is received, the Debtor will present the results of the Auction to the Bankruptcy Court at a duly noticed hearing, at which the Debtor will seek certain findings from the Bankruptcy Court regarding the Auction, including, among other things, that (i) the Auction was conducted in a fair and reasonable manner, (ii) the Successful Bidder was selected in accordance with the Bid Procedures, and (iii) consummation of the Sale contemplated by the Successful Bid will provide the highest and best value for the Property and is in the best interests of the Debtor and its estate.

In the event that, for any reason, the Successful Bidder fails to close the Sale contemplated by its Successful Bid, then, without notice to any other party or further Bankruptcy Court order, the Debtor, shall be authorized to close the Sale with the Bidder that submitted the Next Highest Bid (the “Next Highest Bidder”) in accordance with the foregoing procedures.

RETURN OF MINIMUM DEPOSIT

The Minimum Deposits of all Bidders other than the Successful Bidder and the Next Highest Bidder required to submit a deposit under these Bid Procedures shall be returned upon or within three (3) business days after the Auction. The Minimum Deposit of the Successful Bidder and the Next Highest Bidder shall be held until the closing of the Sale and the deposit of the Successful Bidder, or the Next Highest Bidder if the Property is sold to it, will be applied to the amount of the Successful Bid.

Notwithstanding the above, if the Successful Bidder (or the Next Highest Bidder, if applicable) fails to close the Sale, such party’s Minimum Deposit shall be forfeited and be considered part of the Debtors’ assets subject to administration.

Except as otherwise provided in the Purchase Agreement, the Seller will not be required to maintain any Minimum Deposit in an interest bearing account, but any interest earned on any Minimum Deposit will be remitted to the appropriate Bidder if the Minimum Deposit is returned to the Bidder pursuant to the above or applied to the amount of the Successful Bid. Minimum Deposits may only be used in accordance with the terms of these Bidding Procedures. Neither the Seller nor the Purchaser shall have any liability with respect to any Minimum Deposit.

PAYMENT OF BROKER AND RELATED FEE

There is no broker payment permitted as seller’s broker, although a buyer’s premium of 6% shall be paid by the purchaser at closing.

RESERVATION OF RIGHTS

Except as otherwise provided herein, the Debtor reserves the right to (i) determine which Bids are Qualified Bids; (ii) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (iii) reject any bid that is (a) inadequate or insufficient or (b) not in conformity with the requirements of the Bid Procedures Order or the requirements of the Bankruptcy Code.

JURISDICTION

The Bankruptcy Court shall retain exclusive jurisdiction over any matter or dispute relating to the sale of the Real Property, the Bidding Procedures, the Auction and/or any other matter that in any way relates to the foregoing.

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