

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON DIVISION**

IN RE:

	:	Chapter 11, Judge Howard
NORTHERN KENTUCKY	:	
PROFESSIONAL BASEBALL, LLC	:	Case No. 04-22256
Debtor	:	

**PROCEDURES ORDER APPROVING (I) THE FORM AND MANNER OF SALE
NOTICE, AND (II) CERTAIN SALE PROCEDURES, INCLUDING
THE PAYMENT OF A BREAK-UP FEE**

This matter came before the Court on the Motion for Orders pursuant to sections 105(a), 363 and 365 of Title 11 of the United States Code (“Bankruptcy Code”) and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) approving (i) the form and manner of notice of the proposed sale (the “Notice Procedures”) and (iv) certain sale procedures (the “Sale Procedures”), including the payment, under certain circumstances, of a break-up fee (the “Break-Up Fee”) filed by Northern Kentucky Professional Baseball, LLC, the Debtor and Debtor-in-Possession herein (the “Motion”). Capitalized terms herein shall have the meaning ascribed to them in the Motion.

The Court having reviewed the Motion and it appearing that notice of the Motion was good and sufficient under the particular circumstances and that no other or further notice need be given; and the Court having considered responses to the Motion filed by the U.S. Trustee, Provident Bank, and the Statement filed by FPBC, LLC and the arguments of counsel at the hearing held on November 4, 2004 (the “Procedures Hearing”); and it appearing that the relief requested in the motion is in the best interests of the Debtor, its estate and creditors and other parties in interest; and upon the record of the Procedures Hearing; and after due deliberation thereon; and good cause appearing therefore, it is hereby:

FOUND AND DETERMINED THAT:

A. The Court has jurisdiction over this matter and over the property of the Debtor and its bankruptcy estate pursuant to 28 U.S.C. sec. 1334 and sec. 157(a).

B. This is a core proceeding pursuant to 28 U.S.C. sec. 157(b)(2)(A), (N) and (O).

C. The Debtor has articulated good and sufficient business justifications for approving (i) the form and manner of Notice of the Sale to be distributed to creditors and other parties in interest, including prospective bidders, (ii) the scheduling of a hearing to consider the proposed sale of the Debtor's assets and the assumption and assignment of the Assumed Contracts (as defined in the Motion), (iii) the form of notices of the cure amounts and the assumption of the Designated Other Contracts be filed with the Court and served on parties to such contracts (iv) the Bidding Procedures, and (v) the terms of the Break-Up Fee for the Proposed Purchaser.

D. The Debtor's payment to the Proposed Purchaser (as set forth in the Agreement), of the Break-Up Fee (a) is an actual and necessary cost and expense of preserving the Debtor's estate, within the meaning of section 503(b) of the Bankruptcy Code; (b) is of substantial benefit to the Debtor's estate and the collateral of parties asserting liens, security interests, encumbrances or other interests in and to the Acquired Assets, which are adequately protected from any diminution arising from such Break-Up Fee; (c) is reasonable and appropriate, including in light of the size and nature of the Sale and the efforts that have been and will be expended by the Proposed Purchaser notwithstanding that the proposed Sale is subject to higher or better offers for the Acquired Assets; (d) was negotiated by the parties at arms' length and in good faith; and (e) is necessary to ensure that the Proposed Purchaser will continue to pursue its proposed acquisition of the Business. The Break-Up Fee was a material inducement for, and condition of, the Proposed Purchaser's entry into the Agreement. Thus, assurance to the Proposed Purchaser of payment of the Break-Up Fee has promoted more competitive bidding

by inducing the Proposed Purchaser's bid that otherwise would not have been made, and without which bidding would have been limited.

E. The sale and bidding procedures are reasonable and appropriate and represent the best method for maximizing the return for the Acquired Assets.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Sale Hearing

1. The Sale Hearing shall be held before the Honorable, William S. Howard, United States Bankruptcy Judge for the United States Bankruptcy Court, for the Eastern District of Kentucky, Covington Division, in his courtroom located at 35 W. Fifth Street, Covington, KY 41011 on December 14, 2004 at 2:30 PM (EST), at which time the Court shall consider the Sale and confirmation of the results of the Auction, if any. Objections to the Sale must be in writing and filed with the Court and served upon (such as to be received by) the following on or before December 10, 2004 at 4:00 p.m. EST: (1) Debtor's Counsel (John A. Schuh, Schuh & Goldberg, LLP, 2662 Madison Rd., Cinti., Ohio 45208 (513) 321-2662, (513) 321-0855 (fax), jaschuh@nuvox.net) (2) Counsel for the Unsecured Creditor's Committee (Reuel D. Ash, Ulmer & Berne, 600 Vine St., Suite 2800, Cinti., Ohio 45202 (513) 698-5118, (513) 698-5119 (fax) rash@ulmer.com) (3) Co-Counsel for the City of Florence (Robert Goering, Goering & Goering, 220 W. 3rd St., Cinti., Ohio 45202 (513) 621-0912, (513) 621-6042 (fax), bgoering@fuse.net) and (4) League Counsel (Paul Muething, Keating, Muething & Klekamp, PLL, 1400 Provident Tower, One East 4th St., Cincinnati, Ohio 45202, (513) 579-6517, (513) 579-6457, pmuething@kmklaw.com) (5) U.S. Trustee (Shaun K. Stuart, Office of the UST, 100 E. Vine St, Suite 803 (859) 233-2822, (859) 233-2834 (fax), shaun.stuart@usdoj.gov) and any other parties in interest listed on the Master Service List approved by the Court at the Procedures Hearing. **Any pleadings filed in this case must conform to an "Order Directing**

Administration of this Case” entered on 9/15/2004 [Doc. 31]. Parties in interest who timely file objections may be heard at the hearing and object to the Sale Motion.

2 The failure of any objecting person or entity to make an objection and appear and object at the Sale Hearing shall be a bar to the assertion, at the Sale Hearing or thereafter, of any objection to the Sale Motion, the Sale, or the Debtor's consummation and performance of the Agreement (including the transfer of the Acquired Assets and Assumed Contracts free and clear of all Interests), if authorized by the Court.

3. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court or on the Court's calendar on the date scheduled for the Sale Hearing or any adjourned date.

Notice

4. Notice of (a) the Sale, (b) the Sale Hearing, and (c) the proposed assumption and assignment of the Assumed Contracts and the Designated Other Contracts (as defined in the Motion) to the Proposed Purchaser pursuant to the Agreement shall be good and sufficient, and no other or further notice shall be required, if given as follows:

(a) Notice of Sale Hearing. Within 1 day after the entry of this Procedures Order, the Debtor shall serve this Procedures Order and the Notice of Sale Hearing, a copy of which is attached hereto and the form of which is hereby approved, by first-class mail, postage prepaid, upon (i) all creditors and parties in interest (ii) all entities known to have expressed an interest in the transaction (iii) all entities listed on the Debtor's Master Service List, as approved by the Court, if not otherwise included in para. 5(a)(i) above;

(b) Publication of Sale. The Committee and its counsel shall undertake to provide notice of the sale and the procedures outlined herein to interested parties and prospective purchasers at the Debtor's

expense subject to availability of funds. Such notice should include publication in one or more national newspapers (Wall Street Journal, New York Times or similar) in the national or regional editions. Notice should also be provided to all parties having previously expressed an interest in the assets for sale herein and other minor league baseball franchise owners including those in the Frontier League, as appropriate, and identifiable

(c) Cure Notice and Objections thereto. On or before December 2, 2004 the Cure Notice, attached to the Motion, the form of which is hereby approved, shall be given to (i) the non-Debtor party to any Designated Other Contract and (ii) all entities listed on the Debtor's Master Service List, as approved by the Court. All objections to the assumption and assignment of the Designated Other Contracts or to the amounts listed as Cure Amounts (as those terms are defined in the motion) must be filed on or before December 7, 2004 (the "Cure Objection Deadline"). Any timely filed objection will be heard at the Sale Hearing. With respect to the Stadium Lease (including St. E. Sub-Lease) and Franchise Agreement, the City and the League shall notify the Debtor, Counsel for the Unsecured Creditor's Committee and all Qualified Bidders on or before the Cure Objection Deadline of the acceptance or rejection of the City Cure Tender and the League Cure Tender (as those terms are defined in the 363 Motion), as the case may be, as being in agreed compliance with 11 U.S.C. sec. 365(b).

Break-Up Fee

5. Payment of the Break-Up Fee, as defined in the Agreement, in the amount of \$70,000.00 is hereby approved, and the Break-Up Fee is authorized and directed to be paid at the time and under the circumstances set forth in the Agreement and shall be entitled to priority under Section 364(d)(1) of the Bankruptcy Code as a senior lien and security interest on the Acquired Assets, subordinate only to fees due to the U.S. Trustee under 28 U.S.C. sec. 1930 and the super-priority lien

granted to Heritage Bank with respect to its approved post-petition loan to the Debtor, with priority over all other pre- or post-petition liens or Interests and the proceeds thereof and a surcharge under Section 506(c) of the Bankruptcy Code on any interest of the Debtor in the Acquired Assets which may be subject to any lien, security interest, or other encumbrance.

Sale and Bidding Procedures

6. a. Participation Requirements. Each Potential Bidder interested in participating in the process must deliver (unless previously delivered) to the Debtor's Counsel and Counsel for the Unsecured Creditor's Committee (hereafter jointly referred to as "Counsel") (i) an executed confidentiality agreement, and (ii) financial statements and other information as may be reasonably required by Counsel evidencing such Potential Bidder's ability to close a proposed transaction and to assure future performance under the Stadium Lease (as modified) and the Franchise Agreement. Counsel shall promptly review the financial information and notify the Potential Bidder within 2 business days of the decision of Counsel to grant access to the Debtor's business records to conduct their due diligence.

b. Due Diligence. The Debtor will provide, to the best of its ability, any Potential Bidder with documents sufficient to conduct reasonable due diligence. The Debtor will not be responsible for, and will bear no liability with respect to, any information obtained by Bidders in connection with the sale of the Assets. All of the known business records of the Debtor will be brought together at the stadium office where they will be made available for review. Cost to Complete the stadium information will be made available to any Potential Bidder when it becomes available to Proposed Purchaser and the Debtor. Due Diligence shall be permitted up until the Bid Deadline. The Debtor shall be obligated to provide to any Potential Bidder its most current information detailing what it believes to be the amounts or other requirements necessary to cure potential contracts that might be Designated Other Contracts as defined in the Procedures Motion, although Debtor shall bear no responsibility with respect to any

inaccuracies stated therein, all such Potential Bidders bearing the sole and ultimate responsibility for such information as part of their due diligence.

c. Notice of Intent to Bid. No later than November 29, 2004 any Potential Bidder who desires to submit a competing bid shall submit to (1) Debtor's counsel, John A. Schuh, Schuh & Goldberg, LLP (2) Reuel Ash, Ulmer & Berne, Counsel for the Committee of Unsecured Creditors (3) Peter E. Koenig, Buechner, Haffer, O'Connell Meyers & Healey Co, LPA, Co-Counsel for the City of Florence and (4) Paul Muething, Keating, Muething & Klekamp, League Counsel (i) a completed application to become a member of the Frontier League and such other information as the League may require and (ii) financial and other information as may be required by the City of Florence and the League to provide adequate assurance to the City of Florence and the League of such Potential Bidder's ability to close the proposed transaction and to assure future performance under the Stadium Lease and the Franchise Agreement and (iii) in addition any such Potential Bidder shall deliver to the Debtor the sum of \$75,000.00 (hereafter the "Good Faith Deposit"). Counsel for Provident Bank shall be provided with a list of the competing bids by Debtor's counsel. The Good Faith Deposit shall be returned to the Potential Bidder, without interest, if (a) the City and the League determine that the Potential Bidder is not a Qualified Bidder (as hereafter defined) or (b) if the Potential Bidder is determined to be a Qualified Bidder but is subsequently determined not to be the Successful Bidder or (c) the Proposed Sale is not approved by the Court. The Good Faith Deposit will be returned within 7 business days of the events stated in sub-paragraphs (a) and (c), and 7 business days after closing to the Successful Bidder if sub-paragraph (b) is applicable (i.e. a Qualified Bid which is not the Successful Bid may be treated as a back up bid if the Successful Bidder does not close). If the Successful Bidder fails to close the Debtor may retain such bidder's Good Faith Deposit (but not as liquidated damages), and the Debtor reserves the right to pursue all available remedies, whether legal or equitable, available to it

against said party; and be free to consummate the proposed sale of the Acquired Assets with the next highest and best bidder at the final price bid by such Qualified Bidder at the Auction (or, if that Qualified Bidder is unable to consummate the purchase of the Acquired Assets at that price, the Debtor may consummate the transaction with the next highest and best Qualified Bidder, and so forth).

A "Qualified Bidder" is a Potential Bidder that timely delivers the documents described above, and that the League and the City of Florence jointly with Counsel determine to be reasonably likely (based on financial information submitted by the Potential Bidder, the availability of financing, experience and other considerations deemed relevant by the League and the City of Florence) to submit a bona fide offer, to be able to consummate the Sale if selected as the Successful Bidder, and to provide future performance under the Assumed Contracts.

No later than 2 business days after a Potential Bidder delivers all of the materials required by subparagraphs (i) and (ii) above, the City and the League shall notify the Potential Bidder, the Debtor, Counsel for the Committee of Unsecured Creditors, and the Proposed Purchaser that such Potential Bidder is a Qualified Bidder.

d. Bid Deadline. A Qualified Bidder who desires to make a bid must submit the bid on or before December 3, 2004 ("the Bid Deadline"). The bid shall be delivered to (1) Debtor's counsel, John A. Schuh, Schuh & Goldberg, LLP (2) Reuel Ash, Ulmer & Berne, Counsel for the Committee of Unsecured Creditors 3) Peter E. Koenig, Buechner, Haffer, O'Connell, Meyers, & Healey Co, LPA, Co-Counsel for the City of Florence and (4) Paul Muething, Keating, Muething & Klekamp, League Counsel not later than 12:00 p.m. on the Bid Deadline. Debtor's counsel shall submit a list of the competing bids to counsel for Provident Bank with sufficient detail to identify the bid components. If no bid is received by the Bid Deadline, the Proposed Purchaser shall be deemed to be the Successful Bidder.

e. Bid Requirements. All bids must include the following documents (the "Required Bid Documents"): (i) a letter stating that the Qualified Bidder's offer is irrevocable from the date when made to a date that is 14 days after closing and consummation of the Sale to the Successful Bidder; (ii) an executed copy of the asset purchase agreement of the Proposed Purchaser marked to show modifications to the Proposed Purchaser's Agreement that the Qualified Bidder proposes (the "Marked Agreement"), which may not be subject to a financing contingency and which must, among other things hereafter described, propose paying to the Debtor an overall value that is equal to, or in excess of, at least \$90,000.00 ("Overbid") over the sum of the overall value of the transaction contemplated by the Agreement (which shall be defined as \$1,300,000 plus \$640,000.00 plus \$800,000.00 allocable to construction of the stadium and sign) . The initial Overbid represents the \$70,000.00 Break-Up Fee plus \$20,000.00 earmarked for the payment of administrative expenses. Proceeds derived from further Overbids shall be first applied to administrative expenses incurred in the case. In any Auction (as subsequently defined herein) minimum bid increments shall be \$75,000.00 and proceeds over the Purchaser's initial bid plus the breakup fee, if any, after payment of administrative expenses shall be allocated pro-rata between the Stadium Lease, as modified (including the St. E. Sub-lease) and the Baseball Assets in the same proportion as originally allocated in the Agreement (i.e. $\$1,300,000$ to $\$640,000 = .67$ to $.33$; (iii) written evidence of a commitment for financing (without contingencies) or other evidence of the ability to consummate the Sale and provide future performance under the Assumed Contracts satisfactory to the Debtor, the City of Florence and the League with appropriate contact information for such financing sources; and (iv) demonstrable evidence satisfactory to Counsel that the Qualified Bidder has met the net worth qualification in the Agreement. Bids that are conditioned on obtaining financing, on the outcome of unperformed due diligence by the bidder or which qualify the "as is, where is" terms of the sale on representations or warranties of any kind, nature, or description by

the Seller will be treated as non-conforming bids and will be ignored. Bids that propose to acquire the Baseball Assets without also assuming the Stadium Lease, as modified, will also be treated as non-conforming bids. A bid received from a Qualified Bidder that includes all of the Required Bid Documents and meets all of the above requirements is a "Qualified Bid".

f. Auction. If one or more Qualified Bids (other than that of the Proposed Purchaser) have been received, the Debtor shall conduct an auction (the "Auction") with respect to the Acquired Assets. The Auction shall commence at 1:00 P.M. on December 8, 2004 at the offices of Peter Koenig located on the 3rd Floor, 300 Fourth and Walnut Center, 105 E. 4th St, Cincinnati, Ohio 45202 (513-579-1500). If there is no timely Qualified Bid (other than that of the Proposed Purchaser), the Proposed Purchaser shall be deemed to be the Successful Bidder. Only a Qualified Bidder who has submitted a Qualified Bid is eligible to participate at the Auction. During the Auction, bidding shall begin initially with the highest Qualified Bid and subsequently continue in minimum increments of at least \$75,000.00 which, after the initial Overbid and payment of administrative expenses, shall be allocated pro-rata between the Stadium Lease, as modified (including the St. E. Sub-lease) and the Baseball Assets in the same proportion as originally allocated in the Agreement (i.e. \$1,300,000 to \$640,000 = .67 to .33). The Debtor may conduct the Auction in the manner it determines will result in the highest, best or otherwise financially superior offer for the assets to be sold. Upon conclusion of the bidding, the Auction shall be closed. The Debtor, in consultation with Counsel for the Committee of Unsecured Creditors, shall immediately review each Qualified Bid or Bids on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the sale, and proceed to identify the highest and best bid offer for the assets to be sold (the "Successful Bid") and shall advise all Qualified Bidders of the decision denoting the entity or entities submitting such Successful Bid, the ("Successful Bidder"), and file a notice thereof with the Court.

g. Cure Positions. See paragraph 5.b. above

h. Objection Deadline. Any objection by any creditor or party in interest must be filed no later than December 10, 2004.

i. Sale to Next Highest Qualified Bidder if Successful Bidder Fails to Close. Following the Sale Hearing approving the sale of the assets to the Successful Bidder, if such Successful Bidder fails to consummate an approved sale, the next highest or otherwise best Qualified Bid, as disclosed at the Sale Hearing, shall be deemed to be the Successful Bid and the Debtor shall be authorized, but not required, to consummate the sale with the Qualified Bidder submitting such bid without further order of the Bankruptcy Court and such Qualified Bidder shall be required to consummate the sale on the terms of such Qualified Bid.

SO ORDERED

Tendered by:

/s/ John A. Schuh

John A. Schuh
Schuh & Goldberg, LLP
KBA 83303
2662 Madison Rd.
Cincinnati, Ohio 45208
(513) 321-2662
(513) 321-0855 (fax)
jaschuh@nuvox.net

Pursuant to Local Rule 9022-1(c) John A. Schuh, Esq. shall cause a copy of this Order to be served on all creditors and parties in interest including those persons listed in the Master Service List 10-25-04 and shall file with the Court a Certificate of Service of the Order upon such parties, within ten (10) days thereof.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON DIVISION**

IN RE:

NORTHERN KENTUCKY

PROFESSIONAL BASEBALL, LLC

:

Chapter 11, Judge Howard

:

Case No. 04-22256

Debtor

**NOTICE OF (A) SALE AND OPPORTUNITY TO BID
AND (B) SALE HEARING**

PLEASE TAKE NOTICE

that upon the

**MOTION FOR ORDERS APPROVING (I) THE FORM AND MANNER OF SALE
NOTICE, AND (II) CERTAIN SALE PROCEDURES, INCLUDING THE PAYMENT OF
A BREAK-UP FEE ("Procedures Motion")**

filed in conjunction with the

**MOTION FOR ORDERS AUTHORIZING AND APPROVING (I) THE SALE OF
CERTAIN OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS AND
INTERESTS, (II) THE ASSUMPTION AND ASSIGNMENT OF CERTAIN
EXECUTORY CONTRACTS AND UNEXPIRED LEASES ("363 Motion")**

**A HEARING TO APPROVE THE SALE (THE "SALE") DESCRIBED
BELOW HAS BEEN SCHEDULED BEFORE THE HONORABLE
WILLIAM S. HOWARD, ON DECEMBER 14, 2004 AT 2:30 P.M. (EST)** (the
"Sale Hearing"), in the United States Bankruptcy Court, Eastern District of Kentucky, Covington
Division, 35 W. Fifth Street, Covington, KY 41011 (the "Courtroom").

PLEASE TAKE FURTHER NOTICE that if there are two Qualified Bidders (as defined
below) for the assets proposed for sale, the Debtor shall conduct an auction (the "Auction") at 1:00
P.M. on December 8, 2004 at the offices of Peter Koenig located on the 3rd Floor, 300 Fourth and
Walnut Center, 105 E. 4th St, Cincinnati, Ohio 45202 (513-579-1500), pursuant to the following
terms and conditions:

1. **PURCHASE AGREEMENT FOR SALE OF PROPERTY.** On October 28,
2004, the Debtor and Canterbury Baseball, LLC, a Kentucky limited liability company ("Proposed
Purchaser") entered into an Asset Purchase Agreement (the "Agreement") for the sale (the "Sale")
of substantially all of the assets of the Debtor (the "Acquired Assets") and the assumption and
assignment of certain of the Debtor's executory contracts and unexpired leases (the "Assumed

Contracts".

2. **SALE OF PROPERTY.** The Debtor is the owner of a minor league baseball team known as the Florence Freedom that plays in the Frontier League. The assets that the Debtor seeks to sell consist of the following:

(a) All of Seller's right, title and interest in and to that certain Baseball Stadium Ground Lease Agreement between Seller and the City of Florence dated September 18, 2003 (the "Stadium Lease"), as amended, and the Sublease between Seller and St. Elizabeth Medical Center, Inc. dated May 18, 2004;

(b) All of Seller's right, title, and interest in and to the Franchise Agreement between Seller and the Frontier League and Seller's membership in the Frontier League (the "Franchise");

(c) All of Seller's machinery, equipment, furniture, fixtures and furnishings, (the "Personalty");

(d) All of Seller's Inventory, Intangibles, Prepays, Books and Records, (as those terms are defined in para. 1.1 of the Agreement and all such other assets of any kind and description of the Seller, except for (i) any assets that are expressly rejected by Purchaser at or prior to Closing; and (ii) any bankruptcy causes of action against any third-parties, or litigation claims against Charles Hildebrandt.

Items (b) through (d) are hereafter referred to as the "Baseball Assets".

3. **DISCLAIMER.** Competing Bids are subject to the requirements, limitations and procedures (the "Sale Procedures") set forth herein, which Sale Procedures were approved by order of the Court.

4. **PARTICIPATION REQUIREMENTS.** Unless otherwise ordered by the Bankruptcy Court, each person (a "Potential Bidder") interested in participating in the process must deliver (unless previously delivered) to the Debtor's Counsel (John A. Schuh, Schuh & Goldberg, LLP, 2662 Madison Rd., Cinti., Ohio 45208 (513) 321-2662, (513) 321-0855 (fax), jaschuh@nuvox.net) and Counsel for the Unsecured Creditor's Committee (Reuel D. Ash, Ulmer & Berne, 600 Vine St., Suite 2800, Cinti., Ohio 45202 (513) 698-5118, (513) 698-5119 (fax) rash@ulmer.com) (hereafter jointly referred to as "Counsel") (i) an executed confidentiality agreement, and (ii) financial statements and other information as may be reasonably required by Counsel evidencing such Potential Bidder's ability to close a proposed transaction and to assure future performance under the Stadium Lease (as modified) and the Franchise Agreement. Counsel shall jointly review the financial information and notify the Potential Bidder of the decision of Counsel to grant access to the Debtor's business records to conduct their due diligence. If so granted the Debtor will provide, to the best of its ability, any Potential Bidder with documents sufficient to conduct reasonable due diligence. The Debtor will not be responsible for, and will bear no liability with respect to, any information obtained by Bidders in connection with the sale of the Assets. All of the known business records of the Debtor have been or will be brought together at the stadium office where they will be made available for review. The Proposed

Purchaser, at its expense, is in the process of retaining an architect to develop a punch list of items necessary to complete the construction of the stadium with cost estimates ("Cost to Complete"). Although proprietary in nature the Cost to Complete information will be made available to any Potential Bidder.

5. **QUALIFIED BIDDERS.** Only "Qualified Bidders" will be permitted to bid on the Acquired Assets. After identifying themselves under paragraph 4 and conducting some due diligence, Potential Bidders who wish to enter a bid for the Acquired Assets must be approved by the City of Florence, the Frontier League, and Counsel as "Qualified Bidders". Any Potential Bidder who desires to submit a competing bid shall submit to (1) Debtor's Counsel (John A. Schuh, Schuh & Goldberg, LLP, 2662 Madison Rd., Cinti., Ohio 45208 (513) 321-2662, (513) 321-0855 (fax), jaschuh@nuvox.net) (2) Counsel for the Unsecured Creditor's Committee (Reuel D. Ash, Ulmer & Berne, 600 Vine St., Suite 2800, Cinti., Ohio 45202 (513) 698-5118, (513) 698-5119 (fax) rash@ulmer.com) (3) Co-Counsel for the City of Florence (Peter E. Koenig, Buechner, Haffer, O'Connell Meyers & Healey Co, LPA, 3rd Floor, 300 Fourth and Walnut Center, 105 E. 4th St, Cincinnati, Ohio 45202 (513)-579-1500, (513) 977-4361 (fax) pkoenig@bhomh.com) and (4) League Counsel (Paul Muething, Keating. Muething & Klekamp, PLL, 1400 Provident Tower, One East 4th St., Cincinnati, Ohio 45202, (513) 579-6517, (513) 579-6457, pmuething@kmklaw.com):

(i) a completed application to become a member of the Frontier League and such other information as the League may require and

(ii) financial and other information as may be required by the City of Florence and the League to provide adequate assurance to the City of Florence and the League of such Potential Bidder's ability to close the proposed transaction and to assure future performance under the Stadium Lease and the Franchise Agreement.

(iii) in addition any such Potential Bidder shall deliver to the Debtor the sum of \$75,000.00 (hereafter the "Good Faith Deposit") which the Debtor will hold subject to the terms described in the Procedures Order which accompanies this Notice of Sale which are summarized below.

6. **GOOD FAITH DEPOSIT** - The Good Faith Deposit shall be returned to the Potential Bidder, without interest, if (a) the City, the League and Counsel determine that the Potential Bidder is not a Qualified Bidder or (b) if the Potential Bidder is determined to be a Qualified Bidder but is subsequently determined not to be the Successful Bidder or (c) the Proposed Sale is not approved by the Court. The Good Faith Deposit will be returned within 7 days of the events stated in sub-paragraphs (a) and (c), and 7 days after closing to the Successful Bidder if sub-paragraph (b) is applicable (i.e. a Qualified Bid which is not the Successful Bid may be treated as a back up bid if the Successful Bidder does not close).

7. **NON-CONFORMING BIDS.** Bids that do not conform to the terms of the Agreement and/or the Procedures Order entered on the Procedures Motion will not be accepted for bidding at the Auction. Bids that are conditioned on obtaining financing, on the outcome of unperformed due diligence by the bidder or which qualify the "as is, where is" terms of the sale on representations or warranties of any kind, nature, or description by the Seller will be treated as

non-conforming bids and will be ignored. Bids that propose to acquire the Baseball Assets without also assuming the Stadium Lease, as modified, will also be treated as non-conforming bids and will be ignored.

8. **PURCHASE PRICE.** The consideration to be paid by the Prospective Purchaser for the Acquired Assets is stated as follows:

\$ 640,000.00 Allocated to the Baseball Assets (this sum will be paid to the Debtor to which valid liens asserted against the Debtor's Baseball Assets will attach)

Plus the components of the cure of existing defaults under the Stadium Lease and adequate assurance of future performance under the Stadium Lease

\$1,300,000.00 For the cure of the Debtor's leasehold interest in the Stadium Lease as conditionally modified by the City of Florence (this sum will be paid to the Lien Restitution Fund as that term is defined in the Agreement) to which valid mechanic's and materialmen's liens asserted against the Debtor's leasehold interest in the Stadium Lease will attach.

\$ 400,000.00 Cost to complete the stadium, excluding completion of the sign

\$ 400,000.00 Cost to complete the sign

\$2,740,000.00 Minimum base bid

\$ 250,000.00 Demonstrable minimum net worth in cash or readily marketable securities to adequately assure the City and the League of the ability of the Proposed Purchaser to perform under sec. 7.1(d) of the Agreement

\$2,990,000.00 Total financial commitments of the Proposed Purchaser (Note additionally however that in addition to this sum the Proposed Purchaser will be required to purchase a team bus to transport players to and from away games, the team bus formerly owned by the Debtor having been repossessed by Huntington Bank under an agreed order for relief from stay)

The Proposed Purchaser is assuming the Stadium Lease with the City, including the Sub-Lease with St. Elizabeth Medical Center ("St. E") filed with the Court as Doc. 78. After Closing rents due from St. E under the Sub-Lease (\$4,800.00 per month) will be paid to the Proposed Purchaser or Successful Bidder if other than the Proposed Purchaser, but shall be subject to the Assignment of Rents under the Sub-Lease held by Heritage Bank, i.e. from each \$4,800.00 rent payment due from St. E. under the Sub-Lease, Heritage shall be entitled to monthly debt service approximating \$4,200.00 on its Promissory Note secured by the Assignment of Rents. The Proposed Purchaser or Successful Bidder if other than the Proposed Purchaser, shall have no liability on the Heritage Bank loan, but the encumbrance shall continue after Closing until the sooner of Heritage Bank being paid in full or until rents are no longer payable by St. E under the Sub-Lease by virtue of its termination.

9. **INITIAL OVERBID.** An opening competing bid from a Qualified Bidder must exceed the financial commitments of the Prospective Purchaser by \$90,000.00 (“Initial Overbid”).

10. **AUCTION.** If there is one or more Initial Overbid, an auction (“Auction”) will be conducted. Each Qualified Bidder submitting an Initial Overbid and the Prospective Purchaser shall be entitled to appear and participate at the Auction and to raise its bid for the Acquired Assets as many times as it deems appropriate, in minimum cash increments of not less than \$75,000.00. The Debtor's counsel will preside over all aspects of the auction. The Debtor will allow a reasonable amount of time between each round of competitive bidding.

11. **JURISDICTION OF COURT.** All bidders are deemed to have submitted to the exclusive jurisdiction of the Bankruptcy Court with respect to all matters related to the Auction and Sale and the terms and conditions of the transfer of the Acquired Assets.

12. **SALE AFTER AUCTION.** If the Debtor, in consultation with Counsel for the Unsecured Creditor’s Committee, accepts a bid at the Auction in accordance with the preceding procedures (the “Successful Bid”), the Debtor will seek the Court’s approval of such bid as the highest and best bid at the Sale Hearing. If the Court approves the sale at the Sale Hearing, the Acquired Assets will be sold to the Successful Bidder.

13. **COMPETING BIDDERS’ EXPENSES.** Any Qualified Bidders presenting a competing bid shall bear their own expenses in connection with the sale of the Acquired Assets, as the case may be, whether or not such sale is ultimately approved.

14. **BANKRUPTCY COURT APPROVAL.** The Sale contemplated here is subject to the entry of an order by the Court (i) approving the sale and transfer of the Acquired Assets to the Successful Bidder, free and clear of any and all mortgages, security interest, liens, encumbrances and other interests of any kind or nature whatsoever to the extent permitted by law (other than permitted liens agreed to by the parties), with all valid liens, claims and encumbrances attaching to the sale proceeds at closing and (ii) a finding that each purchaser is a good faith purchaser pursuant to Section 363(m) of the Bankruptcy Code.

15. **SUCCESSFUL BIDDER DEFAULT.** In the event a Qualified Bidder is the Successful Bidder (as determined by the Debtor and approved by the Court), and such Successful Bidder fails to consummate the proposed transaction by the closing for any reason, the Debtor, shall: (i) retain such bidder’s Good Faith Deposit (but not as liquidated damages), and the Debtor reserves the right to pursue all available remedies, whether legal or equitable, available to it against said party; and (ii) be free to consummate the proposed sale of the Acquired Assets with the next highest and best bidder at the final price bid by such Qualified Bidder at the Auction (or, if that Qualified Bidder is unable to consummate the purchase of the Acquired Assets at that price, the Debtor may consummate the transaction with the next highest and best Qualified Bidder, and so forth).

16. **BIDS BINDING.** All bids are irrevocable until 14 days after closing and consummation of the Sale to the Successful Bidder.

17. **ADDITIONAL TERMS.** Additional terms and conditions, as approved by the Court to the extent necessary, may be imposed and announced at the Auction.

18. **ADDITIONAL INFORMATION.** Questions regarding these bidding procedures can be directed to (Debtor's Counsel, John A. Schuh, Schuh & Goldberg, LLP, 2662 Madison Rd., Cinti., Ohio 45208 (513) 321-2662, (513) 321-0855 (fax), jaschuh@nuvox.net) and Counsel for the Unsecured Creditor's Committee (Reuel D. Ash, Ulmer & Berne, 600 Vine St., Suite 2800, Cinti., Ohio 45202 (513) 698-5118, (513) 698-5119 (fax) rash@ulmer.com).

PLEASE TAKE FURTHER NOTICE that all bids submitted in accordance with the preceding requirements will be considered at the Auction upon the terms and conditions of the Sale Procedures. All parties submitting Initial Overbids will be entitled to submit further bids at the Auction in the event that a higher and better offer than that which they initially submitted is received by the Debtor. Subject to the terms and conditions of the Sale Procedures, the Debtor will seek Court approval of the highest and best bid for the Acquired Assets.

PLEASE TAKE FURTHER NOTICE THAT OBJECTIONS to the relief requested in the Sale Motion must be in writing and filed with the Court and served upon (such as to be received by) the following on or before December 10, 2004 at 4:00 p.m. EST : (1) Debtor's Counsel (John A. Schuh, Schuh & Goldberg, LLP, 2662 Madison Rd., Cinti., Ohio 45208 (513) 321-2662, (513) 321-0855 (fax), jaschuh@nuvox.net) (2) Counsel for the Unsecured Creditor's Committee (Reuel D. Ash, Ulmer & Berne, 600 Vine St., Suite 2800, Cinti., Ohio 45202 (513) 698-5118, (513) 698-5119 (fax) rash@ulmer.com) (3) Co-Counsel for the City of Florence (Robert Goering, Goering & Goering, 220 W. 3rd St., Cinti., Ohio 45202 (513) 621-0912, (513) 621-6042 (fax), bgoering@fuse.net) and (4) League Counsel (Paul Muething, Keating. Muething & Klekamp, PLL, 1400 Provident Tower, One East 4th St., Cincinnati, Ohio 45202, (513) 579-6517, (513) 579-6457, pmuething@kmlaw.com) (5) U.S. Trustee (Shaun K. Stuart, Office of the UST, 100 E. Vine St, Suite 803 (859) 233-2822, (859) 233-2834 (fax), shaun.stuart@usdoj.gov) and any other parties in interest listed on the 363 Master Service List approved by the Court at the Procedures Hearing. **Please note that any pleadings filed in this case must conform to an "Order Directing Administration of this Case" entered on 9/15/2004 [Doc. 31].**

Respectfully submitted,

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