

## **SUPPLEMENTAL PROCEDURES FOR EVALUATING NON-SOLICITED ALTERNATIVE TRANSACTIONS**

In the event that the Debtors receive, from and after the date of entry of the Modification Procedures Order, inbound, unsolicited proposals for alternative transactions to the Master Disposition Agreement (whether executed through the Modified Plan or an Alternative Transaction), the following procedures for the evaluation of such transactions shall govern:

### **Introduction**

All capitalized terms used but not otherwise defined in these Procedures shall have the meanings ascribed to them in the Master Disposition Agreement. The Procedures set forth herein describe, among other things, the Transferred Assets and Liabilities available for an Alternative Transaction, the manner in which bidders and bids become Qualified Bidders and Bids, respectively, the coordination of diligence efforts among bidders, the receipt and negotiation of bids received, the conduct of any subsequent Auction (as defined herein), the ultimate selection of the Successful Bidder(s) (as defined herein), and the Bankruptcy Court's approval thereof. The following Procedures are designed to recognize the Company Buyer for its efforts and agreements to date and to facilitate a full and fair process designed to maximize the value of the Purchased Transferred Assets and Liabilities for the benefit of the Debtors' creditors, stakeholders, and estates. The Debtors shall consult with, among others, the official committee of unsecured creditors (the "Creditors' Committee") throughout the administration of these Procedures. In the event that the Debtors and any party disagree as to the interpretation or application of these Procedures, the Bankruptcy Court will have jurisdiction to hear and resolve such dispute. These Procedures are approved under and are subject to the Bankruptcy Court's June 16, 2009 "Modification Procedures Order."

### **Transferred Assets and Liabilities And Liabilities To Be Conveyed**

The assets and liabilities proposed to be transferred and assumed are those contained in the GM Business and the Company Business, including the Assumed Liabilities (each as defined in the Master Disposition Agreement) (the "Transferred Assets and Liabilities").

### **"As Is, Where Is"**

The conveyance of the Transferred Assets and Liabilities will be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Sellers, their agents, or estates, except to the extent set forth in the Master Disposition Agreement and, with respect to a Successful Bidder, to the extent set forth in the relevant agreements of such Successful Bidder and approved by the Bankruptcy Court.

## **Participation Requirements**

Any person who wishes to participate in the alternative transaction process (a "Potential Bidder") must become a Qualified Bidder. As a prerequisite to becoming a Qualified Bidder, a Potential Bidder other than the Buyers, must deliver (unless previously delivered) to the Debtors and their counsel at the addresses provided below, unless otherwise ordered by the Bankruptcy Court or as otherwise determined by the Sellers in their discretion:

- (a) An executed confidentiality agreement in form and substance reasonably satisfactory to Delphi, which shall be substantially similar in all material respects to the form of agreement executed by the Company Buyer (or as otherwise agreed or as the Court, with the input of the Creditors' Committee professionals, may direct);
- (b) Current audited financial statements of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of acquiring the Transferred Assets and Liabilities, current audited financial statements of the equity holders of the Potential Bidder who must guarantee the obligations of the Potential Bidder, or such form of financial disclosure and credit-quality support or enhancement no less favorable to the Debtors than that provided by Buyer and as may be acceptable to Delphi and its financial advisors; and
- (c) A preliminary (non-binding) proposal regarding: (i) the purchase price range, (ii) any Transferred Assets and Liabilities expected to be excluded or any Excluded Assets (as defined in the Master Disposition Agreement), (iii) the structure and financing of the transaction (including, but not limited to, the sources of financing for the Purchase Price and the requisite Good Faith Deposit), (iv) any anticipated regulatory approvals required to close the transaction, the anticipated time frame, and any anticipated impediments for obtaining such approvals, (v) a list of material changes to the Master Disposition Agreement proposed by the Potential Bidder, (vi) confirmation that the Potential Bidder is prepared to execute the Alternative Transaction through either the Modified Plan or an Alternative Sale, and (vii) the nature and extent of additional due diligence it may wish to conduct and confirmation that such due diligence will be completed or waived no later than July 9, 2009.

A Potential Bidder who delivers the documents described in the previous subparagraphs above and whose financial information and credit-quality support or enhancement demonstrate the financial capability of such Potential Bidder to consummate the Alternative Transaction if selected as a Successful Bidder, and who the Sellers reasonably determine (after consultation with the Creditors' Committee's retained professionals) is likely (based on availability of financing, experience, and other considerations) to be able to consummate the Alternative Transaction within the time frame provided by the Master Disposition Agreement, will be deemed a "Qualified Bidder." Notwithstanding the foregoing, the Buyers will be deemed a Qualified Bidder for purposes of the Bidding Process. Within two business days after a Potential Bidder delivers all of the materials required above, the Sellers will determine, and will notify the Potential Bidder, whether such Potential Bidder is a Qualified Bidder. At the same time the Sellers notify the Potential Bidder that it is a Qualified Bidder, the Sellers will allow the Qualified Bidder to commence due diligence with respect to the Transferred Assets and Liabilities as described below.

## **Due Diligence**

The Sellers will afford each Qualified Bidder due diligence access with respect to the Transferred Assets and Liabilities. Due diligence access shall include access to data rooms (which shall contain substantially the same information as provided to the Company Buyer prior to its execution of the Master Disposition Agreement together with all agreements ancillary to the Master Disposition Agreement including, without limitation, agreements between GM and Platinum), on site inspections, and such other matters which a Qualified Bidder may request and as to which the Sellers, in their reasonable discretion, may agree. The Sellers will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders. Any additional due diligence will not continue after July 9, 2009. The Sellers may, in their discretion, coordinate diligence efforts such that multiple Qualified Bidders have simultaneous access to due diligence materials and/or simultaneous attendance at management presentations or site inspections (if any). Except as otherwise required by the Court, neither the Sellers nor any of their Affiliates (or any of their respective representatives) will be obligated to furnish any information relating to Transferred Assets and Liabilities to any Person other than to Qualified Bidders or their professionals.

## **Alternative Transaction Deadline**

A Qualified Bidder who desires to propose an Alternative Transaction must deliver the Required Alternative Transaction Documents to: Delphi Corporation, 5725 Delphi Drive, Troy, Michigan 48098 Attention: Keith Stipp, Executive Director, Restructuring, with copies to: (i) Sellers' counsel, Skadden, Arps, Slate, Meagher & Flom LLP, 333 West Wacker Drive, Chicago, Illinois 60601-1285, Attention: John Wm. Butler, Jr. and Ron E. Meisler, and Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036. Attention: Eric L. Cochran and Kayalyn A. Marafioti, (ii) Delphi's in-house counsel, Delphi Corporation, 5725 Delphi Drive, Troy, Michigan 48098, Attention: Deputy General Counsel – Transactional & Restructuring; (iii) Sellers' financial advisor, Rothschild, Inc., 1251 Avenue of the Americas, New York, New York 10020, Attention: William Shaw, and (iv) counsel to the Creditors' Committee, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022, Attention: Robert J. Rosenberg and Mark A. Broude, so as to be received not later than 11:00 a.m. (prevailing Eastern time) by July 10, 2009 (the "Alternative Transaction Deadline"). The Sellers also will provide the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (the "UAW") and the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers–Communications Workers of America (the "IUE") with notice of all Qualified Bidders and their contact information.

## **Alternative Transaction Document Requirements**

All proposed Alternative Transactions must include the following documents (the "Required Alternative Transaction Documents"):

- (a) A letter stating that the bidder's offer is irrevocable until two Business Days after the closing of any Court-approved Alternative Transaction.

- (b) An executed copy of the Master Disposition Agreement, together with all schedules marked (a "Marked Agreement") to show those amendments and modifications to such Master Disposition Agreement and schedules that the Qualified Bidder proposes, including the Purchase Price (as defined in the Master Disposition Agreement).
- (c) An executed copy of the Section 363 Implementation Agreement, together with any schedules thereto, to show those amendments and modifications to such agreement that the Qualified Bidder proposes.
- (d) To the extent that the Qualified Bidder does not propose to assume all of the Transferred Assets and Liabilities, an executed transition services and shared services agreements with GM as may be applicable.
- (e) A good faith deposit (the "Good Faith Deposit") in the form of a certified bank check from a U.S. bank or by wire transfer (or other form acceptable to the Sellers in their sole discretion) payable to the order of Delphi (or such other party as the Sellers may determine) in an amount equal to \$10 million and satisfactory evidence that the Qualified Bidder has the financial capacity to and will increase the Good Faith Deposit to \$100 million immediately upon being named the Successful Bidder.
- (f) Written evidence of a binding commitment for financing, or other evidence of ability to consummate the proposed transaction, that is satisfactory to the Sellers and their advisors.

### **Qualified Alternative Transactions**

An Alternative Transaction proposed by a Qualified Bidder will be considered only if the Alternative Transaction:

- (a) Is on terms and conditions (other than the amount of the consideration) that the Sellers determine, in the good faith opinion of their senior management, after consultation with their financial advisors and the Creditors' Committee's retained professionals, are not materially more burdensome or conditional to the Sellers than, those contained in the Master Disposition Agreement.
- (b) Is not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder and includes written, executed commitments for any debt/equity financing having terms and conditions no less favorable to the Debtors' ability to close the proposed transaction than those set forth in the commitment letters received from the Buyers.
- (c) Is not conditioned upon any bid protections, such as a break-up fee, termination fee, expense reimbursement, or similar type of payment.
- (d) Includes an acknowledgement and representation that the bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Transferred Assets and Liabilities prior to making its offer, (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the Transferred Assets and Liabilities in making its bid, (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Transferred Assets and Liabilities, or the completeness of any information provided in connection therewith or the Auction, except

as expressly stated in any definitive agreement, and (iv) agrees that any non disclosure agreement or confidentiality agreement entered into with Delphi shall be enforceable by the Successful Bidder.

- (e) Includes a commitment to consummate the purchase of the Transferred Assets and Liabilities within two business days of the satisfaction or waiver of the Alternative Transaction Documents' conditions to closing.
- (f) Includes a fully financed commitment to provide interim DIP funding to the Debtors in amounts required by the Debtors to fund their businesses from the date of being designated as the Successful Bidder through the date of closing the Alternative Transaction in the event that GM provides no liquidity under the GM-Delphi Agreement.
- (g) If the proposed transaction is conditioned on any agreement between General Motors Corporation ("GM") and the Qualified Bidder, such agreement is on terms acceptable to GM or otherwise does not present a material risk that the proposed transaction will not close, which facilitates the transactions contemplated in the Master Disposition Agreement.
- (h) Commits to the assumption and assignment of all collectively bargained labor and benefit plan agreements applicable to the Transferred Assets and any other union-represented employee or former employee sites (such as identified in the applicable union-Delphi-GM Memoranda of Understanding as defined in the Confirmed Plan) that are within the scope of the proposed alternative transaction to at least the same extent as provided in the Master Disposition Agreement.
- (i) Is received by the Alternative Transaction Deadline.

An Alternative Transaction proposed by a Qualified Bidder will constitute a "Qualified Alternative Transaction" only if it includes all of the Required Alternative Transaction Documents and meets all of the above requirements; provided, however, the Sellers will have the right, in their reasonable discretion, to entertain bids for the Transferred Assets and Liabilities that do not conform to one or more of the requirements specified herein and may deem such bids to be Qualified Alternative Transactions. Notwithstanding the foregoing, the Buyers will be deemed Qualified Bidders, and the Master Disposition Agreement will be deemed a Qualified Alternative Transaction, for all purposes in connection with these Procedures. Each Qualified Alternative Transaction other than that of the Buyers is referred to as a "Subsequent Bid." Subject to the provisions of the Modification Procedures Order, the rights of all parties in interest, including the Debtors, are reserved in all respects as to any credit bid, including, without limitation, the right to make a credit bid.

If the Sellers do not receive any Qualified Alternative Transactions other than the Master Disposition Agreement received from the Buyers, the Debtors will report the same to the Bankruptcy Court and will proceed under the Modification Procedures Order pursuant to the terms thereof. Delphi will notify the Buyers and all Qualified Bidders in writing as to whether or not any proposed alternative transactions constitute Qualified Alternative Transactions no later than July 13, 2009.

## **Auction**

If the Sellers receive one or more Qualified Alternative Transactions in addition to the Master Disposition Agreement, the Sellers will conduct an auction (the "Auction") of the Transferred Assets and Liabilities at 10:00 a.m. (prevailing Eastern time) on July 17, 2009 at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036. The Auction shall be transcribed.

- (a) Only the Sellers, the Buyers, any retained professional of the Creditors' Committee, the DIP Agent (and the legal and financial advisers to each of the foregoing), any representative of GM, any representative of the UAW or IUE, and any Qualified Bidder who has timely submitted a Qualified Alternative Transaction will be entitled to attend the Auction, and only the Buyers and Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction. At the Auction, each Qualified Bidder shall confirm on the record that it has not engaged in any collusion with respect to the bidding process or the Alternative Transaction submitted by them.
- (b) All Qualified Bidders who have timely submitted Qualified Alternative Transactions will receive copies of all Qualified Alternative Transaction Documents no later than 5:00 p.m. Eastern Time on July 14, 2009, and will be entitled to be present for all Subsequent Bids with the understanding that the true identity of each bidder will be fully disclosed to all other bidders and that all material terms of each Subsequent Bid will be fully disclosed to all other bidders throughout the entire Auction and put on the record.
- (c) The Sellers, after consultation with the Creditors' Committee professionals, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction, provided that such rules are not inconsistent with these Procedures, the Bankruptcy Code, the Bankruptcy Code, General Order M-331 issued by the United States Bankruptcy Court for the Southern District of New York, or any order of the Bankruptcy Court entered in connection herewith.

## **Selection Of Successful Alternative Transaction**

The concluding date and time of the Auction shall be stated on the record. At the conclusion of the foregoing steps in the Auction, or as soon thereafter as practicable, the Sellers, in consultation with the Creditors' Committee, the UAW, and the IUE-CWA, and their respective advisors, will: (i) review each Qualified Alternative Transaction and the ability to perform all obligations under the Master Disposition Agreement including payments of any Assumed Liabilities or Liabilities of any Sale Company and to otherwise continue operations of the business as a going concern on the basis of financial and contractual terms and the factors relevant to the Alternative Transaction process, including those factors affecting the speed and certainty of consummating the Alternative Transaction, and (ii) identify the highest or otherwise best offer(s) for the Transferred Assets and Liabilities received at the Auction (the "Successful Alternative Transaction" and the bidder(s) proposing such transaction, the "Successful

Bidder(s)"), as well as identifying the Alternate Bidder. No new alternative transactions shall be considered by Delphi or the Bankruptcy Court following the conclusion of the Auction.

The Sellers will convey the Transferred Assets and Liabilities for the highest or otherwise best Qualified Alternative Transaction to the Successful Bidder upon the approval of such Qualified Alternative Transaction by the Bankruptcy Court after the Plan Modification Hearing. The Debtors' presentation of a particular Qualified Alternative Transaction to the Court for approval does not constitute the Sellers' acceptance thereof. The Sellers will be deemed to have accepted an alternative transaction only when it has been approved by the Bankruptcy Court at the Plan Modification Hearing.

### **Return Of Good Faith Deposits**

Good Faith Deposits of all Qualified Bidders (except for the Successful Bidder) will be held in an interest-bearing escrow account, and all Qualified Bids will remain open (notwithstanding Bankruptcy Court approval of a Alternative Transaction pursuant to the terms of one or more Successful Bids by one or more Qualified Bidders), until two Business Days following the Closing of the Alternative Transaction (the "Return Date"). If a Successful Bidder fails to consummate an approved Alternative Transaction because of a breach or failure to perform on the part of such Successful Bidder, the Sellers will not have any obligation to return the Good Faith Deposit, and such Good Faith Deposit will irrevocably become property of the Sellers. On the Return Date, the Sellers will return the Good Faith Deposits of all other Qualified Bidders, together with the accrued interest thereon.

### **Reservations Of Rights**

The Sellers, after consultation with the retained professionals for the Creditors Committee and subject to review by the Bankruptcy Court: (i) may determine which Qualified Alternative Transaction, if any, is the highest or otherwise best offer and (ii) may reject, at any time any bid (other than the Buyers' bid) that is: (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bankruptcy Code, the Procedures, or the terms and conditions of the Alternative Transaction, or (c) contrary to the best interests of the Sellers, their estates, and stakeholders.