

Bid Procedures Order Hearing Date: 8/30/16 at 11:00 A.M.
 Bid Procedures Order Objection Deadline: 8/23/16 at 5:00 P.M.

Auction Date and Time: 9/27/2016 at 10:00 a.m.
 Sale Hearing Date and Time: 9/29/2016 at 11:00 a.m.
 Objection Deadline: 9/22/2016 at 4:00 p.m.

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Counsel to the Debtor and Debtor-in-Possession

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF NEW YORK

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In re	:	
	:	Chapter 11
HI-TEMP SPECIALTY METALS, INC.,	:	Case No. 16-72767-las
	:	
Debtor.	:	
-----X		

**NOTICE OF HEARING ON DEBTOR’S MOTION FOR AN ORDER
 APPROVING SALE PROCEDURES AND GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that the above-captioned debtor and debtor in possession, Hi-Temp Specialty Metals, Inc. (the “**Debtor**”), filed the annexed Motion (the “**Motion**”) for entry of orders: (A) (i) approving sale and bidding procedures (“**Bid Procedures**”) in connection with the proposed sale of substantially all the Debtor’s assets (the “**Assets**”), (ii) approving stalking horse protections; (iii) scheduling an auction (the “**Auction**”) and a hearing (the “**Sale Hearing**”); (iv) approving the form of notice of the Auction and Sale Hearing and the form and manner of notice of the assumption, assignment, and/or sale of executory contracts and unexpired leases and related cure amounts, if any (the “**Cure Notice**”); and (B) (i) authorizing the sale of the Assets free and clear of liens, claims, encumbrances, and

other interests pursuant to the terms of the purchase agreement, substantially in the form to be filed with the Court (the “**Purchase Agreement**”); (ii) authorizing and approving the Purchase Agreement; (iii) approving the assumption, assignment, and/or sale of executory contracts and unexpired leases, as necessary; (iv) providing for the indefeasible payment of net proceeds from the sale of the Assets to Wells Fargo National Bank (“**Wells Fargo**”) to the extent necessary to fully satisfy Wells Fargo’s allowed secured claim; and (v) granting related relief.

PLEASE TAKE FURTHER NOTICE that the hearing to consider approval of the Bid Procedures will be held before the Honorable Louis A. Scarcella, United States Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of New York, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, on August 30, 2016, at 11:00 A.M. (prevailing Eastern Time) (the “**Hearing Date**”) or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Bid Procedures shall be in writing, shall conform to the Bankruptcy Code, the Bankruptcy Rules and Local Rules of the Bankruptcy Court, shall set forth the name of the objectant, the basis for the objection, and the specific grounds therefore, and shall be filed with the Bankruptcy Court electronically in accordance with General Order 559 (which can be found at www.nyeb.uscourts.gov) by registered users of the Bankruptcy Court’s case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers) and served in accordance with General Order 559, and served upon: (i) DiConza Traurig Kadish LLP, 630 Third Avenue, New York, New York 10017, Attn: Gerard DiConza and (ii) the Office of the United States Trustee, Alfonse D’Amato Federal

Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Attn: Stan Y. Yang, Esq., so as to actually be filed with the Bankruptcy Court and received by the parties listed above no later than **August 23, 2016 at 5:00 p.m.** (prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE that if no objection is timely filed and received, the Bankruptcy Court may approve the Bid Procedures on the Hearing Date. Objecting parties are required to attend on the Hearing Date and failure to appear may result in relief being granted or denied upon default.

Dated: August 15, 2016
New York, New York

DICONZA TRAUIG KADISH LLP

By: /s/ Gerard DiConza
Gerard DiConza
630 Third Avenue
New York, New York 10017
Tel: (212) 682-4940Hi-Temp Specialty

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Counsel to the Debtor and Debtor-in-Possession

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re :
: Chapter 11
HI-TEMP SPECIALTY METALS, INC., : Case No. 16-72767-las
:
Debtor. :
-----X

**DEBTOR’S MOTION FOR ORDERS (A)(I) APPROVING SALE PROCEDURES;
(II) APPROVING STALKING HORSE PROTECTIONS; (III) SCHEDULING AUCTION
AND HEARING DATES TO CONSIDER SALE OF CERTAIN ASSETS;
(IV) APPROVING FORM AND MANNER OF NOTICE OF SALE PROCEDURES
AND NOTICE OF POTENTIAL ASSUMPTION, ASSIGNMENT, AND/OR SALE
OF CONTRACTS AND LEASES; AND (V) GRANTING RELATED RELIEF;
AND (B)(I) AUTHORIZING THE SALE OF ASSETS FREE AND CLEAR OF LIENS,
CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) AUTHORIZING
AND APPROVING PURCHASE AGREEMENT THERETO; (III) APPROVING
THE ASSUMPTION, ASSIGNMENT, AND/OR SALE OF CERTAIN
EXECUTORY CONTRACTS AND UNEXPIRED LEASES RELATED THERETO;
(IV) PROVIDING FOR INDEFEASIBLE PAYMENT OF SALE PROCEEDS
TO SECURED LENDER; AND (V) GRANTING RELATED RELIEF**

TO THE HONORABLE LOUIS A. SCARCELLA,
UNITED STATES BANKRUPTCY JUDGE:

Hi-Temp Specialty Metals, Inc., the above-captioned debtor and debtor in
possession (the “**Debtor**”), by and through its counsel, hereby moves this Court for orders: (A)

(i) approving sale and bidding procedures (“**Bid Procedures**”) in connection with the proposed sale of substantially all the Debtor’s assets (the “**Assets**”), (ii) approving stalking horse protections; (iii) scheduling an auction (the “**Auction**”) and a hearing (the “**Sale Hearing**”); (iv) approving the form of notice of the Auction and Sale Hearing and the form and manner of notice of the assumption, assignment, and/or sale of executory contracts and unexpired leases and related cure amounts, if any (the “**Cure Notice**”); and (B) (i) authorizing the sale of the Assets free and clear of liens, claims, encumbrances, and other interests pursuant to the terms of the purchase agreement (the “**Purchase Agreement**”) substantially in the form to be filed with the Court;¹ (ii) authorizing and approving the Purchase Agreement; (iii) approving the assumption, assignment, and/or sale of executory contracts and unexpired leases, as necessary; (iv) providing for the indefeasible payment of net proceeds from the sale of the Assets to Wells Fargo National Bank (“**Wells Fargo**”) to the extent necessary to fully satisfy Wells Fargo’s allowed secured claim (the “**Wells Fargo Allowed Claim**”); and (v) granting related relief. In support of this Motion, the Debtor respectfully represents:

Introduction

1. As of the Petition Date, the Debtor was indebted to Wells Fargo in the aggregate outstanding amount of approximately \$13.2 million, pursuant to that certain Pre-Petition Loan Agreement dated as of July 10, 2010 (the “**Pre-petition Loan Agreement**”). The Debtor’s obligations to Wells Fargo under the Pre-Petition Credit Facility are secured by first-priority, perfected security interests in substantially all of the Debtor’s assets.

2. By Order dated August 5, 2016 (the “**Interim DIP Order**”), the Court authorized the Debtor to obtain post-petition financing (the “**DIP Facility**”) on a senior secured, superpriority basis from Wells Fargo, pursuant to that certain Ratification and Amendment to the

¹ The Debtor anticipates filing the Purchase Agreement with the Court in the near term.

Amended and Restated Credit and Security Agreement dated July 19, 2016 (the “**Ratification Agreement**”) by and among Debtor and Wells Fargo, substantially in the form attached as **Exhibit 1** to the Interim DIP Order.

3. Pursuant to section 5.7 of the Ratification Agreement, the Debtor agreed to, among other things, obtain entry of an order approving the bidding procedures for the sale of all or substantially all of the Debtor’s assets within thirty (30) days after entry of the Interim DIP Order (the “**Bid Procedures Order**”). In addition, section 5.7(c) of the Ratification Agreement provides that the Debtor shall conduct an auction for its assets no later than seventy (70) days after entry of the Interim DIP Order. Failure to comply with section 5.7 of the Ratification Agreement is an event of default under the DIP Facility.

4. As of the date of this Motion, the Wells Fargo Allowed Claim is approximately \$11 million, and continues to accrue reasonable fees, interest and other charges due under the DIP Facility.²

Jurisdiction and Venue

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

6. The statutory predicates for relief sought herein are sections 105(a), 363 and 365 of Title 11 of the Bankruptcy Code (the “**Bankruptcy Code**”), Rules 2002(a)(2), 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), Local Bankruptcy Rule 6004-1 and Administrative Order No. 557 of the Bankruptcy Court for the Eastern District of New York (“**Administrative Order 557**”).

² The Debtor will provide a more precise figure to Qualified Bidders on or before the Bid Deadline (as defined below).

Procedural Background

7. On June 22, 2016 (the “**Petition Date**”), Debtor filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor is operating its business and managing its properties as debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in this chapter 11 case.

8. On July 13, 2016, the United States Trustee appointed a committee of unsecured creditors in this case (the “**Committee**”).

9. As set forth in the Declaration of Joseph Smokovich Pursuant to Local Bankruptcy Rule 1007-4 dated and filed as of the Petition Date [Dkt. No. 2] (the “**Smokovich Declaration**”),³ the Debtor retained CohnReznick Capital Markets Securities, LLC (“**CRCMS**”) on June 15, 2016 as investment bankers to conduct a marketing process with respect to a refinancing or a sale of substantially all of the Assets. By Order dated August 11, 2016, the Court authorized and approved the retention of CRCMS as Investment Banker to the Debtor.

10. Upon being retained, CRCMS’s professionals formulated a marketing strategy and commenced implementing a dual-track process that is designed to enable the Debtor to successfully complete an asset sale or a refinancing at a price sufficient to satisfy the Wells Fargo Allowed Claim in full, cover administrative expense, and provide a return to unsecured creditors. As part of this process, CRCMS established a data room populated with over 170 files of pertinent information for prospective new lenders or investors, completed a Confidential Information Memoranda and other collateral marketing materials, created a monthly three-years financial projection for the business upon emergence, identified dozens potential providers of

³ A detailed description of the Debtor’s business and the reasons for the filing of the chapter 11 case and for the relief sought in this Motion are set forth in the Smokovich Declaration.

capital, and received indications of interest from new senior lenders, potential stalking horses, and other bidders. Specifically, CRCMS contacted several potential buyers and financing sources in connection with the marketing processes.⁴ Further, numerous parties have executed confidentiality agreements and are in further discussions with CRCMS. As noted above, while the Debtor is simultaneously pursuing a sale process and refinancing process, the subject of this Motion is limited to approval of a sale process. The approval of any refinancing transaction will be the subject of a separate motion.⁵

Relief Requested

11. To comply with their obligations under the Ratification Agreement, by this Motion, the Debtor seeks (a) first, the entry of the Bid Procedures Order, substantially in the form annexed hereto as Exhibit A: (i) approving the Bid Procedures; (ii) approving stalking horse protections; (iii) scheduling the Auction and Sale Hearing and establishing related deadlines; (iv) approving the form and manner of notice of the Bid Procedures, the Auction, the Sale Hearing, and the potential assumption, assignment, and sale of executory contracts and unexpired leases and related cure amounts, if any; and (b) second, the entry of an order (the “**Sale Order**”) (i) authorizing the sale of the Assets free and clear of liens, claims, encumbrances, and interests, pursuant to the Purchase Agreement; (ii) authorizing and approving the Purchase Agreement; (iii) approving the assumption, assignment, and sale of various executory contracts and unexpired leases related thereto; (iv) providing for the indefeasible

⁴ The third parties solicited by CRCMS included sophisticated financial institutions, hedge funds, and lower-middle-market business lenders.

⁵ In the event the Debtor, after consultation with the Committee, determines that a refinancing in lieu of sale is in the best interests of the Debtor’s estate and creditors, the Debtor will file a motion seeking interim and final approval of such refinancing, pursuant to section 364 of the Bankruptcy Code.

payment of net proceeds from the sale of the Assets to Wells Fargo in an amount sufficient to satisfy the Wells Fargo Allowed Claim in full;⁶ and (v) granting related relief.

12. In addition and in connection with the sale of the Assets, the Debtor may seek to assume, assign, and/or sell to the ultimate purchaser of the Assets certain executory contracts (each, a “**Contract**”) and unexpired leases (each, a “**Lease**”).

Bidding Procedures and Assets to be Sold⁷

13. The Debtor is proposing to sell the Assets and assigning Contracts and Leases pursuant to the terms of the applicable Purchase Agreement.⁸ As a result, the Debtor proposes the Bid Procedures, which are attached to the Bid Procedures Order as Exhibit 1 and which are incorporated herein by reference, in an attempt to maximize the benefit to the Debtor’s estate, creditors, and other interested parties.

14. The sale process contemplates that bidders conduct their due diligence prior to making bids for the Assets and that Qualified Bids will not contain any material due diligence or financing contingencies.⁹ Qualified Bidders shall examine or inspect the Assets prior to the Auction or waive such right. The Bid Procedures contemplate an Auction process pursuant to

⁶ If the prevailing bid is for a purchase price that is less than the full amount of the Wells Fargo Allowed Secured Claim, the sale may be consummated solely upon Wells Fargo’s approval. In any such sale, upon closing, the successful bidder shall pay the purchase price by wire transfer of immediately available U.S. funds to the Debtor, and the Debtor shall remit such proceeds, less the reasonable out-of-pocket fees, costs and expenses directly arising from the closing of such sale, to Wells Fargo up to the amount of the Wells Fargo Allowed Secured Claim, less the Carve-out as defined in the Interim DIP Order.

⁷ The proposed Bidding Procedures are attached as Exhibit “1” to the Bid Procedures Order.

⁸ The Debtor will also consider proposals for alternative sale structures. For example, a Qualified Bidder may submit an offer to refinance Wells Fargo and proceed with a plan or acquire the Debtor’s equity interests in connection with a chapter 11 plan of reorganization. If such an offer is submitted, and if the Debtor determines that, in light of all relevant factors, it is the highest or otherwise best offer, the Debtor, after consultation with Wells Fargo and the Committee, reserves the right to modify the Bid Procedures and/or terminate the Auction and seek further relief from the Court to effectuate such a transaction.

⁹ Due diligence requests should be directed to CohnReznick Capital Markets, Attn: Jeffrey R. Manning, 500 E Pratt Street, Baltimore, MD 21202; jeff.manning@crcms.com; Phone: (410) 690-8788. Each bidder is solely responsible for conducting its own due diligence and must complete its due diligence prior to the submission of its bid.

which bids will be subject to higher or better offers. As described more fully in the Bid Procedures, only Qualified Bidders who timely submit Qualified Bids will be eligible to participate in the Auction. The Debtor hereby highlights the pertinent provisions of the proposed Bid Procedures. Specifically, the Bid Procedures provide, in relevant part, as follows:¹⁰

- a. Prequalification. To participate in the bidding process or otherwise be considered for any purpose hereunder, an entity or person interested in the acquisition of the Assets (a “**Potential Bidder**”) must deliver, on or before September 20, 2016, evidence of the Potential Bidder’s ability to consummate the transaction to CRCMS’s, Investment Banker for the Debtor, Attn: Jeffrey R. Manning, 500 E Pratt Street, Baltimore, MD 21202 (jeff.manning@crcms.com).
- b. “Qualified Bidder”. A “**Qualified Bidder**” is a bidder whose financials or other information demonstrate the financial capability and sophistication to consummate and perform obligations in connection with the sale and which the Debtor determines is reasonably likely to make a bona fide offer and would be able to consummate a proposed sale if selected as the Successful Bidder. A bid received from a Qualified Bidder that meets the requirements set forth herein will be considered a “**Qualified Bid**” if the Debtor (in its discretion, but after consultation with the Committee and Wells Fargo) believes that such bid would be consummated if selected as a Successful Bid.
- c. Bid Deadline. **September 22, 2016 at 5:00 p.m. (prevailing Eastern Time)**. Prior to the Bid Deadline, a Qualified Bidder that desires to make a bid for the Assets or for a Refinancing shall deliver written copies of its bid via electronic or regular mail to: (i) the Debtor’s Investment Banker, CRCMS, Attn: Jeffrey R. Manning, jeff.manning@crcms.com, 500 E Pratt Street, Baltimore, MD 21202, tel. (410) 690-8788; (ii) Debtor’ counsel, DiConza Traurig Kadish LLP, Attn: Gerard DiConza, gdiConza@dtklawgroup.com; (iii) counsel for Wells Fargo, Otterbourg P.C., 230 Park Avenue, New York, New York 10169, Attn: Jon Helfat, jhelfat@otterbourg.com, and Daniel F. Fiorillo, dfiorillo@otterbourg.com; and (iv) counsel to the Committee, Pepper Hamilton LLP, 19th Floor, High Street Tower, 125 High Street, Boston MA 02110, Attn: Todd Feinsmith, Esq. feinsmitht@pepperlaw.com, and Pepper Hamilton LLP, Suite 1800, 4000 Town Center, Southfield MI 48075, and Attn: Deborah Kovsky-

¹⁰ The following description of the Bid Procedures is a summary of the terms set forth in the Bid Procedures annexed as Exhibit 1 to the Bid Procedures Order. Capitalized terms utilized but not defined in this summary of the Bid Procedures shall have the meanings ascribed to such terms in the Bid Procedures. To the extent that this summary differs in any way from the terms set forth in the Bid Procedures, the terms of the Bid Procedures shall control.

Apap, Esq, kovskyd@pepperlaw.com. The Debtor may extend the Bid Deadline at its sole discretion after consultation with the Committee and Wells Fargo.

- d. Submission of Bids. A bid must be a written irrevocable offer from a Qualified Bidder and must (i) state that the Qualified Bidder offers to consummate the sale pursuant to an agreement that has been marked to show any amendments and modifications to the Purchase Agreement; *provided, however*, that if a bidder proposes to acquire the Debtor's business through a transfer including a plan of reorganization, the Debtor, after consultation with Wells Fargo and the Committee, reserves the right to deem such a bidder a Qualified Bidder despite any non-conformance of the proposed acquisition documentation (such purchase agreement or alternative documentation shall be referred to as the "**Marked Purchase Agreement**"); (ii) confirm that such Qualified Bidder's offer shall remain open and irrevocable until the closing of the sale of the Assets to the applicable Successful Bidder or the Next Highest Bidder; (iii) enclose a copy of the proposed Marked Purchase Agreement as well as an executed "clean" copy of the Marked Purchase Agreement; (iv) propose terms for a sale with Cash Consideration (as defined in the Purchase Agreement) in an amount sufficient to satisfy the Wells Fargo Allowed Claim in full at Closing; (v) contain a list of the Debtor's executory contracts and unexpired leases that the Qualified Bidder desires to assume and a packet of information, including financial information, that will be provided to the non-Debtor parties to such executory contracts and unexpired leases sufficient to demonstrate adequate assurance of future performance; (vi) provide that the Qualified Bidder will pay all cure costs associated with the executory contracts and unexpired leases identified for assumption by such bidder; (vii) be accompanied by a wire transfer of a minimum good faith deposit (the "**Minimum Deposit**") in an amount equal to at least 5% of the Purchase Price (as defined in the Purchase Agreement) identified in the Marked Purchase Agreement, which Minimum Deposit shall be used to fund a portion of the applicable Purchase Price and shall be increased to 10% of the Purchase Price at least one business day prior to the Sale Hearing if the Qualified Bidder is selected as a Successful Bidder or the Next Highest Bidder; (viii) must provide that the Sale of the Assets shall close on or before **October 3, 2016**, unless otherwise agreed to by the Debtor, after consultation with Wells Fargo and the Committee; (ix) be on terms that are not materially more burdensome or conditional than the terms of the Purchase Agreement; (x) not be conditioned on obtaining financing or the outcome of any due diligence by the Qualified Bidder; (xi) not request or entitle the Qualified Bidder to any break-up fee, expense reimbursement or similar type of payment;¹¹ (xii) fully disclose

¹¹ The form Purchase Agreement provides for a break-up fee and expense reimbursement. As discussed below, such bid protections shall only be available, to the extent approved by the Court, to the Stalking Horse Bidder if one is selected. A Qualified Bidder should therefore remove such provisions when submitting a Marked

the identity of each entity that will be bidding for the Assets and any connections or agreements between such entity and the Debtor and its affiliates and/or any officer, director, or direct or indirect equity security holder of the Debtor and its affiliates; and (xiii) if a Stalking Horse Bidder is selected, the bid must be in an amount not less than the Minimum Initial Overbid.

- e. Stalking Horse Bid. In the event that a Stalking Horse Bidder is selected, (i) the Debtor shall file with the Court an amended Purchase Agreement, which shall supersede the original Purchase Agreement and shall be used by Potential Bidders in submitting a Marked Purchase Agreement; and (ii) any other Qualified Bid shall be required to be in an amount not less than the sum of (1) the Purchase Price, plus (2) the Break-Up Fee and Expense Reimbursement (each as defined in the Purchase Agreement), plus (3) \$100,000 (together, the “**Minimum Initial Overbid**”); *provided, however*, that all bids must propose Cash Consideration in an amount sufficient to satisfy the Wells Fargo Allowed Claim in full.
- f. Modification of Bidding and Auction Procedures. The Debtor reserves the right as it may reasonably determine to be in the best interests of its estate (in its discretion, but in each case only after consultation with Wells Fargo and the Committee) to (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best proposal and which is the next highest or otherwise best proposal; (iv) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bid Procedures, the Bid Procedures Order or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtor and its estate; (v) waive terms and conditions set forth herein with respect to all Potential Bidders; (vi) impose additional terms and conditions with respect to all Potential Bidders; (vii) extend the deadlines set forth herein as long as it does not cause a default under the Ratification Agreement; (viii) modify the Bid Procedures as it may determine to be in the best interests of its estate; and (ix) terminate the Auction and/or reject all bids in the event that the Debtor elects to consummate a refinancing in place of the Sale.
- g. Backup Bid. If an Auction is held, the Debtor shall be deemed to have accepted a Qualified Bid only when (i) such bid is declared the Successful Bid at the Auction and (ii) definitive documentation has been executed in respect thereof. Such acceptance is conditioned upon approval by the Court and the entry of an Order approving such Successful Bid. If (i) an Auction is held, (ii) the Successful Bidder and the Next Highest Bidder are

Purchase Agreement, to the extent that the form Purchase Agreement is not superseded by an updated Purchase Agreement in the event that a Stalking Horse Bidder is selected.

selected, (iii) the Court approves the sale to the Successful Bidder, and (iv) the sale to such Successful Bidder is not consummated because of a breach or failure to perform on the part of such Successful Bidder, then the Debtor shall be authorized to consummate a sale to the Next Highest Bidder without further court order or notice to any other party (other than to Wells Fargo and the Committee). A defaulting Successful Bidder and/or the Next Highest Bidder shall forfeit its/their Minimum Deposits in accordance with such Successful Bidder and/or Next Highest Bidder Marked Purchase Agreement, and the Debtor specifically reserve the right to seek all additional damages from, and exercise all remedies against, a defaulting Successful Bidder and/or Next Highest Bidder.

- h. Date and Time of Auction. If the Debtor receives more than one Qualified Bid (including the bid of a Stalking Horse Bidder if one is selected) from Qualified Bidders by the Bid Deadline, the Auction will take place on **September 27 at 10:00 a.m. (prevailing Eastern Time)** at the offices of CohnReznick LLP, 1301 Avenue of the Americas, New York, New York 10019, or such other time or place as the Debtor may provide so long as such change is communicated reasonably in advance by the Debtor to all Qualified Bidders, the Committee and Wells Fargo. CRCMS shall direct and preside over the Auction at the direction of the Debtor, in consultation with its advisors, the Committee and Wells Fargo. If only one Qualified Bid (including the bid of a Stalking Horse Bidder if one is selected) is received by the Bid Deadline, the Auction will be deemed cancelled and that Qualified Bid, if it is otherwise accepted by the Debtor, after consultation with Wells Fargo and the Committee, will be deemed the Successful Bid for the Assets identified in the Purchase Agreement, and the Debtor will seek authority from the Court to consummate the Sale contemplated by the Qualified Bid.
- i. Auction Rules. If an Auction is held, the following rules for its conduct shall be observed: (i) only a Qualified Bidder who has submitted a Qualified Bid by the Bid Deadline will be eligible to participate at the Auction; (ii) each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding; (iii) prior to the commencement of the Auction, the Debtor shall determine (in its discretion, but after consultation with the Committee and Wells Fargo) which Qualified Bid represents the then-highest or otherwise best bid for the Assets (the “**Initial Bid**”); (iv) Qualified Bidders will be permitted to increase their bids, and bidding shall start at the Purchase Price stated in the Initial Bid and then continue in increments as determined by the Debtor and announced at the commencement of the Auction; and (v) immediately prior to concluding the Auction, the Debtor shall, after consultation with Wells Fargo and the Committee, (a) review each Qualified 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; (b) determine and identify the highest or otherwise best Qualified Bid (the “**Successful Bid**”) and the Qualified Bidder submitting such bid (the “**Successful Bidder**”); (c) determine and identify the next highest or otherwise best Qualified Bid after the Successful Bid (the “**Next Highest Bid**”) and the Qualified Bidder submitting such bid (the “**Next Highest Bidder**”); and (d) have the right to reject any and all bids. Within one business day of the completion of the Auction, the Successful Bidder shall complete and execute all agreements, instruments, or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made. The Debtor shall have the right to reject any and all bids that do not conform to the Bid Procedures.

- j. Sale Hearing. The Debtor requests that the Sale Hearing be held on **September 29, 2016 at 11:00 a.m. (prevailing Eastern Time)** before the Honorable Louis A. Scarcella, United States Bankruptcy Court, Eastern District of New York, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722. Each of the Successful Bidder and Next Highest Bidder must produce a competent witness at the Sale Hearing to provide testimony, if necessary, to establish adequate assurance of future performance by each such bidder under the unexpired leases and executory contracts to be assigned to such bidder.
- k. Return of Minimum Deposit. Except as otherwise provided in the Bid Procedures with respect to any Successful Bid and any Next Highest Bid, the Minimum Deposits tendered under the Bid Procedures shall be returned to any Qualified Bidders that are not designated as the Successful Bidder or Next Highest Bidder within one business day after the entry of an order approving the sale. The Minimum Deposit of the Successful Bidder shall be held until the closing of the sale and applied to the Purchase Price. The Minimum Deposit of the Next Highest Bidder shall be returned upon or within two (2) business days after closing of the applicable sale to the Successful Bidder. If any Successful Bidder or Next Highest Bidder fails to close the sale, such party’s Minimum Deposit shall be forfeited to the Debtor, and the Debtor specifically reserves the right to seek all additional damages from, and exercise all remedies against, a defaulting Successful Bidder and/or Next Highest Bidder.

Stalking Horse Protections

- 15. The Debtor does not currently have an established bidder for the Assets.

However, the Debtor anticipates that it may become necessary to grant “stalking horse” protections as the Debtor moves forward with the marketing process related to the sale.

16. To induce Potential Bidders to expend the time, energy, and resources necessary to submit an offer, the Debtor seeks approval of certain bidding protections in the event that the Debtor enters into an agreement for the sale of the Assets with a Potential Bidder (such bidder, the “**Stalking Horse Bidder**”) prior to the Auction. To avoid compromising the sale timelines under the Interim DIP Order, the Debtor seeks to establish the following procedures for selecting a Stalking Horse Bidder and seek approval to make the following protections available to the Stalking Horse Bidder without further order from the Court:

- a. Selection of Stalking Horse Bidder. The Debtor shall have authority to select a Stalking Horse Bidder, upon consultation with Wells Fargo and the Committee. A party shall be eligible to be designated a Stalking Horse Bidder so long as (i) it enters into a signed Purchase Agreement (which may or may not substantially conform to the Purchase Agreement) by **September 15, 2016**, and (ii) it tenders the Minimum Deposit. In the event that the Debtor selects a Stalking Horse Bidder, the Stalking Horse Bidder shall be deemed to be a Qualified Bidder and to have submitted a Qualified Bid.
- b. Bid Protections. If the Debtor consummates a transaction other than a transaction with the Stalking Horse Bidder, then to the extent provided in the Purchase Agreement, the Stalking Horse Bidder shall be entitled to the following protections (the “**Bid Protections**”): (i) a Break-Up Fee in an amount up to 3% of the Purchase Price, and (ii) an Expense Reimbursement in an amount equal to the reasonable out-of-pocket costs, fees and expenses incurred by the Stalking Horse Bidder (including fees and expenses of legal, accounting and financial advisors) in connection with the Purchase Agreement in an amount not to exceed \$100,000.

Discussion

A. Justification for Sale of The Property

17. The decision to sell the Assets is left to the sound business judgment of the Debtor. Courts should permit a sale where the debtor has articulated a sound business justification for selling such property outside of the ordinary course of business. *See, e.g., Licensing by Paolo, Inc. v. Sinatra (In re Gucci)*, 126 F.3d 380, 387 (2d Cir. 1997); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *In*

re Global Crossing Ltd., 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989); *cf. In re Delphi Corp.*, No. 05-44481(RDD), 2009 WL 2482146, at *6 (Bankr. S.D.N.Y. July 20, 2009) ("Debtors have demonstrated compelling circumstances and a good, sufficient and sound business purpose and justification for the sale under . . . section 363(b) and (f) of the Bankruptcy Code.").

18. Courts look to various factors to determine whether a sound business justification exists, including: (i) whether a sound business reason exists for the proposed transaction; (ii) whether fair and reasonable consideration is provided; (iii) whether the transaction has been proposed and negotiated in good faith; and (iv) whether adequate and reasonable notice is provided. *In re Lionel Corp.*, at 1071.

19. Here, there is more than ample business justification to approve the Motion and authorize the sale of the Assets to the Successful Bidder (or Next Highest Bidder) on substantially the terms set forth in the Purchase Agreement. The Debtor is required to pursue a sale of the Assets pursuant to the Ratification Agreement. The Debtor believes that the Bid Procedures and the Auction will generate maximum interest and bidding under the circumstances and that the bidding process will yield the highest and best bids for the Assets. Accordingly, the relief sought by this Motion is not only reasonable, but also necessary to preserve and maximize the value of the Debtor's estate for the benefit of their stakeholders.

20. The notices described herein and the Bid Procedures are designed to provide adequate notice to all potentially interested parties, including those who have previously expressed an interest in purchasing the Assets. Moreover, the Bid Procedures are designed to maximize the value received for the Assets. The process proposed by the Debtor allows for a timely auction process, while providing bidders with sufficient time and information to submit a

timely bid. The Bid Procedures are designed to ensure that the Assets will be sold for the highest or otherwise best possible purchase price under the circumstances. Accordingly, the Debtor and all parties in interest can be assured that the consideration received for the Assets will be fair and reasonable.

21. Finally, it is appropriate for the Court to authorize the indefeasible payment of net sale proceeds to Wells Fargo in an amount sufficient to fully satisfy the Wells Fargo Allowed Claim under the DIP Facility. Section 5.7 of the Ratification Agreement provides that “all cash proceeds generated by [the] Sale(s), less reasonable out of pocket fees, costs and expenses directly arising from the closing of such Sale(s), subject to approval by Wells Fargo . . . shall be remitted to Wells Fargo for application against, and in permanent reduction of, the Indebtedness” Thus, the relief requested by the Motion, if granted, will allow the Debtor to perform this obligation under the DIP Facility, and it is appropriate for any order approving the sale to, among other things, authorize the Debtor to satisfy the Wells Fargo Allowed Claim.

22. The Debtor submits that the proposed sale constitutes (or will constitute) the best transaction for the Assets and will provide a greater recovery for the Debtor’s estate than would be provided by any available alternative. Thus, the Debtor’s proposed sale represents a sound exercise of its reasonable business judgment.

B. Cause Exists to Allow the Debtor to Select a
Stalking Horse Bidder and to Approve Bid Protections

23. To induce Qualified Bidders to expend the time, energy, and resources to submit an offer, and to ensure compliance with its obligations under the DIP Facility, the Debtor should be authorized to select a Stalking Horse Bidder and offer certain Bid Protections, consisting of the Break-Up Fee and Expense Reimbursement, which shall be deemed allowed superpriority administrative expense claims under sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code.

Without the ability to select a Stalking Horse Bidder and offer the Bid Protections, the Debtor will face greater uncertainty with respect to the Auction, to the potential detriment of the Debtor, its estate, creditors, and stakeholders.

24. Approval of the Bid Protections is governed by standards for determining the appropriateness of bidding incentives in the bankruptcy context. In considering the appropriateness of a break-up fee, courts consider whether the parties dealt at arm's length, whether the fee hampers bidding, and whether the amount of the fee is reasonable relative to the proposed purchase price. *See Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656-57 (S.D.N.Y. 1992) (noting that overbid procedures and break-up fee arrangements that have been negotiated by a debtor are to be reviewed according to the deferential "business judgment" standard, under which such procedures and arrangements are "presumptively valid"); *In re 995 Fifth Ave. Assocs., L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (holding that the business judgment standard protects break-up fees and other contractual provisions negotiated in good faith).

25. Although courts do not closely examine whether a debtor's decision to consent to a break-up fee is appropriate, courts do examine whether the fee will discourage bidding and whether the fee is reasonable relative to the purchase price. *See Integrated Res., Inc.*, 147 B.R. at 657. With regard to whether the break-up fee will discourage bidding, courts consider whether the debtor's consent to a break-up fee to secure a stalking horse bidder served "(1) to attract or retain a potentially successful bid, (2) to establish a bid standard or minimum for other bidders to follow, or (3) to attract additional bidders." *Id.* at 662. As for the size of the fee in relation to the purchase price, the fee "should be reasonably related to the risk, effort, and expenses of the prospective purchaser." *Id.* at 662. In the Second Circuit, break-up fees in the range of 2-4% are

generally considered to be reasonable and appropriate. *Id.* at 662. (1.6% reasonable); *see In re Ray Realty Fulton, Inc.*, No. 09-41225, 2009 WL 2600760, at *1; 2009 Bankr. LEXIS 2415, at *3 (Bankr. E.D.N.Y. Aug. 21, 2009) (3.5% percent reasonable). The Debtor submits that the Break-Up Fee will serve to secure a potential stalking horse bidder, which, in turn, will attract other potential bidders to the Debtor's Auction. Finally, the Break-Up Fee is only 3% of the purchase price, within the range of break-up fees found to be appropriate in the Second Circuit.

C. The Sale Satisfies the Requirements of Section 363(f) of the Bankruptcy Code

26. Under section 363(f) of the Bankruptcy Code, a debtor in possession may sell all or any part of its property free and clear of any and all liens, claims, encumbrances, or interests in such property if (i) such a sale is permitted under applicable non-bankruptcy law; (ii) the party asserting such a lien, claim, encumbrance, or interest consents to such sale; (iii) the interest is a lien and the purchase price for the property is greater than the aggregate amount of all liens on the property; (iv) the interest is the subject of a *bona fide* dispute; or (v) the party asserting the lien, claim, encumbrance, or interest could be compelled, in a legal or equitable proceeding, to accept a money satisfaction for such interest. *See* 11 U.S.C. § 363(f); *see also In re Smart World Tech., LLC*, 423 F.3d 166, 169 n.3 (2d Cir. 2005) ("Section 363 permits sales of assets free and clear of claims and interests.... It thus allows [a purchaser] to acquire assets [from a debtor] without any accompanying liabilities.") Because the Debtor expects that it will satisfy the second and fifth requirements of section 363(f) in this case, if not others as well, approving the sale of the Assets free and clear of all adverse interests is warranted.

27. The Debtor also submits that it is appropriate to sell the Assets free and clear of successor liability relating to the Debtor's business. Such a provision ensures that the Successful Bidder is protected from any claims or lawsuits premised on the theory that the Successful Bidder is a successor in interest to the Debtor. Courts have consistently held that a buyer of a

debtor's assets pursuant to a section 363 sale takes free from successor liability relating to the debtor's business. *See, e.g., MacArthur Co. v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 837 F.2d 89, 93-94 (2d Cir. 1988) (holding that channeling of claims to proceeds is consistent with intent of sale free and clear under section 363(f) of the Bankruptcy Code); *In re Chrysler LLC*, 405 B.R. 84, 111 (Bankr. S.D.N.Y. 2009) (“[S]uccessor or transferee liability claims against [the purchaser] are encompassed by section 363(f) and are therefore extinguished by the Sale Transaction.”), *aff’d*, 567 F.3d 108 (2d Cir. 2009).

28. The Debtor reserves the rights to make additional written and/or oral arguments at or before the Sale Hearing concerning their request to sell the Assets free and clear of all interests in response to any objections thereto. Nevertheless, the Debtor notes that, with respect to the second basis for selling free and clear under section 363(f), Wells Fargo has, subject to the timely satisfaction of all terms and conditions contained in the Ratification Agreement, expressly consented to the sale of the Assets pursuant to the Ratification Agreement. In fact, pursuit of the sale is one of the requirements under the Ratification Agreement. Thus, the sale of the Assets satisfies the requirements of section 363(f).

D. The Sale Is Proposed in “Good Faith” Under Section 363(m) of the Bankruptcy Code

29. The Debtor requests that the Court find that the Successful Bidder (or Next Highest Bidder) is entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code.

30. Section 363(m) of the Bankruptcy Code provides, in pertinent part:

The reversal or modification on appeal of an authorization under subsection (b) . . . of this section of a sale . . . of property does not affect the validity of a sale . . . under such authorization to an entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale . . . were stayed pending appeal.

11 U.S.C. § 363(m).

31. Section 363(m) of the Bankruptcy Code thus protects the purchaser of assets sold pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal.

32. As required by section 363(m) of the Bankruptcy Code, the Bid Procedures have been proposed in good faith and provide that both the Debtor and the potential purchasers must act in good faith in negotiating the sale and the assignment of the designated Contracts and Leases.

33. To constitute lack of good faith, a party's conduct in connection with the sale must usually amount to "fraud, collusion between the purchaser and other bidders or the trustee or an attempt to take grossly unfair advantage of other bidders." *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986) (citing *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)); *see also In re Bedford Springs Hotel, Inc.*, 99 B.R. 302, 305 (Bankr. W.D. Pa. 1989); *In re Perona Bros., Inc.*, 186 B.R. 833, 839 (D.N.J. 1995). Due to the absence of a bright line test for good faith, the determination is based on the facts of each case, concentrating on the "integrity of [an actor's] conduct during the sale proceedings." *In re Pisces Leasing Corp.*, 66 B.R. 671, 673 (E.D.N.Y. 1986) (quoting *In re Rock Indus. Mach. Corp.*, 572 F.2d at 1998).

34. The Second Circuit has indicated that a party would have to show fraud or collusion between a buyer and the debtor-in-possession or trustee in order to demonstrate a lack of good faith. *See Kabro Assocs. of West Islip, LLC, v. Colony Hill Assocs. (In re Colony Hill Assocs.)*, 111 F.3d 269, 276, (2d Cir. 1997) ("[t]ypically, the misconduct that would destroy a purchaser's good faith status at a judicial sale involves fraud, collusion between the [buyer] and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders"

(quotation marks and citation omitted)); *see also In re Bakalis*, 220 B.R. 525, 537 (Bankr. E.D.N.Y. 1998).

35. Here, the sale of the Assets and the assumption, assignment, and/or sale of those Contracts and Leases designated by the purchaser will be in good faith. There is no evidence of fraud or collusion in the Debtor's marketing process. To the contrary, as discussed throughout this Motion, and as will be further demonstrated at the Sale Hearing, the Purchase Agreement will be the culmination of a solicitation and negotiation process in which all parties are expected to be represented by counsel. All negotiations have been, and will continue to be, conducted on an arm's-length, good-faith basis, and the Bid Procedures are designed to ensure that no party is able to exert undue influence over the process. Under the circumstances, the Successful Bidder (or Next Highest Bidder) should be afforded the protections that section 363(m) of the Bankruptcy Code provides to a good faith purchaser. Furthermore, the Bid Procedures are designed to prevent the Debtor or the Successful Bidder (or Next Highest Bidder) from engaging in any conduct that would cause or permit the Purchase Agreement, or the sale of the Assets to the Successful Bidder (or Next Highest Bidder) pursuant thereto and hereto, to be avoided under section 363(n) of the Bankruptcy Code.

36. All parties in interest will receive notice of the sale and will be provided with an opportunity to be heard. Additionally, all counterparties to the Contracts and Leases will be provided notice of the potential assumption, assignment, and/or sale of their agreements and an opportunity to be heard. The Debtor submits that such notice is adequate for entry of the Sale Order and satisfies the requisite notice provisions required under sections 363(b) and 365 of the Bankruptcy Code.

E. The Proposed Manner and Form of Notice is Fair and Adequate

37. The Debtor requests that the Court approve the form of notice to be provided to various parties in interest to adequately inform such parties of the proposed sale and to advise such parties who may be interested in participating in the Auction of the qualifications for becoming a Qualified Bidder and the Bidding Procedures relating to the Auction (the "**Sale Notice**"). A copy of the Sale Notice is attached as Exhibit 2 to the Bid Procedures Order.

38. The Debtor requests that the Sale Hearing be scheduled for **September 29, 2016 at 11:00 a.m. (prevailing Eastern Time)**. Following entry of the Bid Procedures Order, the Debtor, in compliance with Bankruptcy Rule 2002(a)(2) will serve a copy of the Bid Procedures Order and the Sale Notice upon the following parties: (i) the United States Trustee; (ii) Wells Fargo, by its counsel; (iii) the Committee, by its counsel; (iv) all parties known by the Debtor to assert liens, claims, rights, interests or encumbrances of record in the Assets; (v) all parties having filed a notice of appearance in the Debtor's chapter 11 case; (vi) all the Debtor's known creditors; (vii) all applicable regulatory governmental agencies, federal and state taxing authorities; (viii) all parties who are known to claim interests in any of the Debtor's contracts and leases; and (ix) all parties known to the Debtor who have expressed an interests in purchasing the Assets (collectively, the "**Notice Parties**"). In addition, the Debtor proposes to publish notice of the Sale, substantially in the form of the Sale Notice, in the national edition of a news publication (*e.g.*, The Wall Street Journal, New York Times or USA Today).

39. The Debtor proposes to serve the Sale Notice within two (2) business days of entry of the Bid Procedures Order, by first-class mail, postage prepaid on the Notice Parties. The Sale Notice will advise interested parties that written offers for the Assets must be timely submitted in conformity with the Bid Procedures Order and provides that any party that has not

received a copy of this Motion or the Bid Procedures Order that wishes to obtain a copy, including all exhibits thereto, may make such request in writing to counsel for the Debtor.

40. Pursuant to Bankruptcy Rules 2002(a) and (c), the Debtor is required to notify creditors of the proposed sale of the Assets, including a disclosure of the time and place of any auction, the terms and conditions of the proposed sale, and the deadline for filing objections, if any. The Debtor submits that the notice procedures described above comply fully with Bankruptcy Rule 2002 and are reasonably calculated to provide timely and adequate notice of the sale of the Assets, the Bid Procedures, the Auction, and the Sale Hearing to the Debtor's creditors and all other parties in interest that are entitled to notice, as well as those parties who have expressed an interest in acquiring the Assets. Accordingly, the Debtor respectfully requests that the Court approve the notice procedures set forth in this Motion, including the form and manner of service of the Auction and Sale Notice, and hold that no other or further notice of the Sale, the Sale Procedures, the Auction, or the Sale Hearing is required.

41. In addition, in connection with the proposed assumption, assignment, and/or sale of the Contracts and Leases, the Debtor will prepare a schedule of the Contracts and Leases that it believes it may assume, assign, and/or sell, as well as the amounts that the Debtor believes are necessary to cure any defaults under such agreements pursuant to section 365 of the Bankruptcy Code (the "**Cure Amount**"). Within ten (10) business days of the entry of the Bid Procedures Order, the Debtor will serve the Cure Notice, substantially in the form annexed to the Bid Procedures Order as Exhibit 2, on each of the counterparties to the Contracts and Leases, identifying the Contracts and Leases to be assigned and the proposed Cure Amounts.

42. The Debtor proposes that if any counterparties to a Contract or Lease wish to object (a "**Contract Objection**") to (i) the ability to assign such Contract or Lease or (ii) the

proposed Cure Amount, such Contract Objection must (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) be filed with the clerk of the Bankruptcy Court on or before **4:00 p.m. (prevailing Eastern Time) on September 22, 2016**, or such later date and time as the Debtor may agree (the “**Contract Objection Deadline**”); and (d) be served by first class mail, overnight mail, courier or email, so as to be received on or before the Contract Objection Deadline by: (i) the Debtor, Hi-Temp Specialty Metals, Inc., 355 Sills Road, Yapank, New York 11980, Attn: Joe Smokovich; (ii) counsel to the Debtor, DiConza Taurig Kadish, LLP, 630 Third Avenue, New York, New York 10017, Attn: Lance A. Schildkraut (las@dtklawgroup.com); (iii) the Office of the United States Trustee, Region 2, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Attn: Stan Yang; (iv) counsel for Wells Fargo, Otterbourg P.C., 230 Park Avenue, New York, New York 10169, Attn: Jon Helfat and Daniel F. Fiorillo; and (v) counsel to the Committee, Pepper Hamilton LLP, 19th Floor, High Street Tower, 125 High Street, Boston MA 02110, Attn: Todd Feinsmith, Esq., and Pepper Hamilton LLP, Suite 1800, 4000 Town Center, Southfield MI 48075, Attn: Deborah Kovsky-Apap, Esq.

43. Failure to timely object shall be deemed consent to the proposed Cure Amount and assignability of any such Contract or Lease.

44. If a Contract or Lease is included in any Successful Bid or Next Highest Bid, the Debtor shall, within one (1) day after the conclusion of the Auction, file with the Court a notice identifying the Successful Bidder and any Next Highest Bidder and the Contracts and Leases that such Successful Bidder and any Next Highest Bidder will seek to take assignment of from the Debtor upon the closing of the Sale. The Debtor shall serve such notice by overnight courier, email or facsimile to the non-Debtor parties to such Contracts and Leases.

45. Counterparties to the Contracts and Leases to be assumed by the Successful Bidder and any Next Highest Bidder may raise objections to the adequate assurance of future performance by such Successful Bidder and any Next Highest Bidder at the Sale Hearing.

F. Debtor May Assume and Assign the Contracts and Leases

46. Section 365 of the Bankruptcy Code authorizes a debtor to assume and/or assign its executory contracts and unexpired leases, subject to the approval of this Court, provided that the defaults under such contracts and leases are cured and adequate assurance of future performance is provided. The standard applied in determining whether an executory contract or unexpired lease should be assumed is the “business judgment” test, which requires a debtor to determine that the requested assumption or rejection would be beneficial to its estate. *See NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984) (describing business judgment test as “traditional”) (superseded in part by 11 U.S.C. § 1113).

47. The meaning of “adequate assurance of future performance” depends on the facts and circumstances of each case, but should be given “practical, pragmatic construction.” *EBG Midtown S. Corp. v. McLaren/Hart Envtl. Eng’g Corp. (In re Sanshoe Worldwide Corp.)*, 139 B.R. 585, 592 (S.D.N.Y. 1992) (citations omitted), *aff’d*, 993 F.2d 300 (2d Cir. 1993); *Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988). Among other things, adequate assurance may be given by demonstrating the assignee’s financial health and experience in managing the type of enterprise or property assigned. *In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (finding adequate assurance of future performance present when the prospective assignee of a lease from the debtors had the financial resources and had expressed a willingness to devote sufficient funding to the business in order to give it a strong likelihood of succeeding; “chief determinant of adequate assurance of future performance is whether rent will be paid”).

48. The Successful Bidder (or the Next Highest Bidder) may desire to take assignment of certain Contracts and Leases. To the extent Contracts and Leases are identified for assumption, assignment, and/or sale by the Successful Bidder (or the Next Highest Bidder), the Debtor will cause all cure amounts to be paid at consummation of the sale and believes that it can and will demonstrate that all requirements for assumption and/or assignment of such Contracts and Leases will be satisfied prior to or at the Sale Hearing. The Debtor, as required by the Bid Procedures, will evaluate the financial wherewithal of all potential bidders before qualifying such bidders to bid for the Assets.

49. Further, for the reasons stated throughout this Motion, the Debtor, in exercising its sound business judgment, believes that selling the Assets and assuming and assigning to the Successful Bidder (or the Next Highest Bidder) the selected Contracts and Leases will be in the best interests of their estate.

50. In addition, counterparties to the Contracts and Leases selected by the Successful Bidder and/or Next Highest Bidder will have an opportunity to object to the provision of adequate assurance of future performance up until the Sale Hearing. As set forth above, the Debtor will provide all parties to the Contracts and Leases an opportunity to be heard. Parties to the Contracts and Leases will be given an opportunity to assert objections to the assumption, assignment, and/or sale, including as to the Cure Amounts and whether the Successful Bidder (or the Next Highest Bidder) can provide adequate assurance of future performance.

51. Thus, the Debtor requests that the assumption, assignment, and/or sale of the Contracts and Leases that are designated for assumption, assignment, and/or sale by the Successful Bidder (or Next Highest Bidder) be approved.

G. Extraordinary Provisions of the Proposed Sale

52. Pursuant to the Court’s Sale Guidelines for the conduct of Auction sales, adopted by Administrative Order 557, the Debtor is required to highlight any “extraordinary provisions” of the proposed sale process. The extraordinary provisions of the proposed sale of the Assets are as follows:

- a. Use of Proceeds. The Debtor contemplates that, in addition to satisfying the Wells Fargo Allowed Claim, the sale proceeds will be used to fund a plan of reorganization and pay other claims, including administrative, priority and unsecured claims.
- b. Waiver of 14-Day Automatic Stay of Bankruptcy Rules 6004(h) and 6006(d). Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Similarly, Bankruptcy Rule 6006(d) provides that an “order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.” To permit the Debtor to close the sale of the Assets expeditiously and in compliance with the Ratification Agreement, the Debtor requests that the Court waive the 14-day stays under Bankruptcy Rules 6004(h) and 6006(d), thereby making the Sale Order immediately effective.

No Prior Request

53. No prior request for the relief sought in this Motion has been made to this or any other court.

Notice

54. The Debtor will provide a copy of this Motion, with exhibits, to: (i) the United States Trustee; (ii) Wells Fargo, by its counsel; (iii) the Committee, by its counsel; (iv) all parties having filed a notice of appearance in the Debtor’s chapter 11 case; and (v) all parties known by the Debtor to assert liens, claims, rights, interests or encumbrances of record in the Assets.

55. The Debtor proposes that objections, if any, to the Bid Procedures as set forth in the Bid Procedures Order are to be filed with the Bankruptcy Court and served on: (i) counsel

for the Debtor, DiConza Traurig Kadish LLP, 630 Third Avenue, New York, New York 10017, Attn: Gerard DiConza; (ii) the Office of the United States Trustee, Region 2, Alfonse D'Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Attn: Stan Yang; (iii) counsel for the Committee, Pepper Hamilton LLP, 620 Eighth Avenue, 37th Floor, New York, New York 10018, Attn: Todd A. Feinsmith; and (iv) counsel for Wells Fargo, Otterbourg P.C., 230 Park Avenue, New York, New York 10169, Attn: Jon Helfat and Daniel F. Fiorillo, no later than August 23, 2016 at 5:00 p.m.

Conclusion

WHEREFORE, the Debtor respectfully requests (a) entry of the Bid Procedures Order, substantially in the form attached hereto as Exhibit A, (b) entry of Sale Order substantially in the form to be filed prior to the Sale Hearing, and (c) such other and further relief as the Court deems just and proper.

Dated: Yaphank, New York
August 15, 2016

Respectfully submitted,

HI-TEMP SPECIALTY METALS, INC.

By: /s/ Joseph Smokovich
Joseph Smokovich
Its: President

Dated: New York, New York
August 15, 2016

DICONZA TRAURIG KADISH LLP
Counsel for the Debtor

By: /s/ Gerard DiConza
Gerard DiConza
630 Third Avenue
New York, New York 10017
Tel: (212) 682-4940
Email: gdiconza@dtklawgroup.com

EXHIBIT A

Proposed Bid Procedures Order

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X	
In re	:
	:
HI-TEMP SPECIALTY METALS, INC.,	:
	:
Debtor.	:
-----X	

Chapter 11
Case No. 16-72767-las

ORDER (I) APPROVING SALE PROCEDURES; (II) APPROVING STALKING HORSE PROTECTIONS; (III) SCHEDULING AUCTION AND HEARING TO CONSIDER SALE OF CERTAIN ASSETS; (IV) APPROVING FORM AND MANNER OF NOTICE OF SALE PROCEDURES AND NOTICE OF POTENTIAL ASSUMPTION, ASSIGNMENT, AND/OR SALE OF CONTRACTS AND LEASES; AND (V) GRANTING RELATED RELIEF

Upon the Motion dated August 15, 2016 (the "**Motion**") of debtor, Hi-Temp Specialty Metals, Inc. (the "**Debtor**") for entry of Orders (A) (i) approving sale and bidding procedures in the form annexed hereto as Exhibit 1 ("**Bid Procedures**") in connection with the proposed sale of substantially all the Debtor's assets (the "**Assets**"), (ii) approving stalking horse protections; (iii) scheduling an auction (the "**Auction**") and a hearing (the "**Sale Hearing**"); (iv) approving the form of notice of the Auction and Sale Hearing, substantially in the form annexed hereto as Exhibit 2 (the "**Sale Notice**") and the form and manner of notice of the assumption, assignment, and/or sale of executory contracts and unexpired leases and related cure amounts, if any, substantially in the form annexed hereto as Exhibit 3 (the "**Cure Notice**"); and (B) (i) authorizing the sale of the Assets free and clear of liens, claims, encumbrances, and other interests pursuant to the terms of the purchase agreement (the "**Purchase Agreement**") substantially in the form to be filed with the Court; (ii) authorizing and approving the Purchase Agreement; (iii) approving the assumption, assignment, and/or sale of executory contracts and unexpired leases, as necessary; (iv) providing for the indefeasible payment of net proceeds from the sale of the Assets to Wells Fargo National Bank ("**Wells Fargo**") to the extent necessary to

fully satisfy the Wells Fargo Allowed Claim¹; and (v) granting related relief; and the Court having determined that the relief provided herein is in the best interest of the Debtor, its estate, creditors and other parties in interest; and due and adequate notice of the Motion having been given under the circumstances; and upon the record of the hearing on the Motion, and the full record of the Debtor's case; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

B. This Court has jurisdiction over the Motion and the transactions contemplated by the Purchase Agreement pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

C. Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

D. Good and sufficient notice of the Motion and the relief sought therein has been given under the circumstances, and no other or further notice is required except as set forth herein with respect to the proposed notice of the Bid Procedures and the Sale. A reasonable opportunity to object and be heard regarding the relief provided herein has been afforded to parties in interest.

E. The Debtor's proposed notice of the Bid Procedures, Auction and Sale Hearing (including the proposed publication thereof) is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction and the Sale, as well as the Bid Procedures to be employed in connection therewith.

¹ Capitalized terms not defined herein shall have the meaning given such terms in the Motion.

F. The procedures for selecting a Stalking Horse Bidder (defined below), along with the Break-Up Fee and Expense Reimbursement (together, the "**Bid Protections**"), are reasonable and necessary under the circumstances. The Bid Protections (i) shall, if triggered, be deemed an actual and necessary cost and expense of preserving the Debtor's estate, within the meaning of sections 503 and 507(b) of the Bankruptcy Code; (ii) are of substantial benefit to the Debtor's estate; (iii) are reasonable and appropriate, including in light of the size and nature of the proposed Sale and the efforts that will be expended by a Stalking Horse Bidder; (iv) were negotiated at arms' length and in good faith by the Debtor, Wells Fargo and the Committee; and (v) are a necessary incentive for a Stalking Horse Bidder to be willing to enter into the Purchase Agreement. The Bid Protections are commensurate with the real and substantial post-petition benefits to be conferred upon the Debtor's estate by a Stalking Horse Bidder and constitute actual and necessary costs and expenses incurred by the Debtor in preserving the value of its estate within the meaning of section 503(b) of the Bankruptcy Code.

G. The Debtor's proposed Cure Notice of Cure Amounts is appropriate and reasonably calculated to provide all parties to the Debtor's Contracts and Leases with timely and proper notice of the proposed Cure Amounts, the Contract Objection Deadline, the Adequate Assurance Objection Deadline, and Sale Objection Deadline.

H. The entry of this Bid Procedures Order is in the best interests of the Debtor, its estate, creditors and other parties in interest.

I. The Bid Procedures are fair, reasonable, and appropriate under the circumstances and are reasonably designed to maximize the value to be achieved for the Assets.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. The Motion is GRANTED, as set forth herein.

2. All objections to the Motion pertaining to approval of the Bid Procedures or entry of this Bid Procedures Order, including the relief provided herein that have not been withdrawn, waived or settled, and all reservations of rights included therein, hereby are overruled and denied on the merits; *provided, however*, that any party's rights to object to the Sale, the assumption, assignment, and/or sale of any Contract of Lease, any proposed Cure Amount, and/or the provision of adequate assurance of future performance under such Contract or Lease are expressly reserved, subject to the Bid Procedures.

3. The Bid Procedures, in the form attached hereto as Exhibit 1, are incorporated herein and approved and shall apply to the Sale; *provided, however*, that the Debtor may make any non-material changes that it reasonably deems necessary to the Bid Procedures after the entry of this Bid Procedures Order with the consent of both Wells Fargo and the Committee.

4. The Debtor is authorized to enter into the Purchase Agreement for the sale of the Assets prior to the Auction and is authorized, after consultation with Wells Fargo and the Committee, to designate a party with whom the Debtor enters into an agreement for the sale of the Assets as a "Stalking Horse Bidder." A party shall be eligible to be designated a Stalking Horse Bidder so long as (i) it enters into a signed Purchase Agreement (which may be a modified version of the Purchase Agreement) by September 15, 2016 and (ii) it tenders the Minimum Deposit.

5. In the event that the Debtor selects a Stalking Horse Bidder, the Stalking Horse Bidder shall be deemed to be a Qualified Bidder and to have submitted a Qualified Bid.

6. The Stalking Horse Bidder shall be entitled to the following protections (the "**Bid Protections**"): (i) a Break-Up Fee in an amount up to 3% of the Purchase Price, and

(ii) an Expense Reimbursement in an amount equal to the reasonable out-of-pocket costs, fees and expenses incurred by the Stalking Horse Bidder (including fees and expenses of legal, accounting and financial advisors) in connection with the Purchase Agreement in an amount not to exceed \$100,000. The Debtor is hereby authorized to pay any and all amounts owing to a Stalking Horse Bidder on account of the Bid Protections without further action or order by the Court.

7. The Bid Protections shall be allowed superpriority administrative expense claims in the Debtor's Chapter 11 Case pursuant to sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code, senior to all other administrative expenses claims.

8. The Debtor is authorized to seek to sell, subject to all parties' rights to object to any proposed sale of the Assets and as set forth in this Bid Procedures Order, by conducting the Auction in accordance with the Bid Procedures.

9. In the event that the Debtor determines that a refinancing of Wells Fargo's indebtedness in lieu of a Sale is in the best interests of the Debtor's estate and creditors, the Debtor shall file a motion seeking interim and final approval of such refinancing, pursuant to section 364 of the Bankruptcy Code and Bankruptcy Rule 4001.

10. A Qualified Bidder that desires to make a bid shall comply with the requirements set forth in the Bid Procedures for making such bid. The Bid Deadline to submit a Qualified Bid shall be **September 22, 2016 at 5:00p.m. (prevailing Eastern Time)**.

11. If the Debtor receives more than one Qualified Bid (including the bid of a Stalking Horse Bidder if one is selected) in accordance with the Bid Procedures, then the Debtor may conduct the Auction as set forth in the Bid Procedures. The Auction, if held, shall take place on **September 27, 2016 at 10:00 a.m. (prevailing Eastern Time)** at the offices

CohnReznick LLP, 1301 Avenue of the Americas, New York, New York 10019, or such other time or place as the Debtor may provide so long as such change is communicated reasonably in advance by the Debtor to all Qualified Bidders, the Committee and Wells Fargo.

12. Each Qualified Bidder shall confirm that it has not engaged in any collusion with respect to the bidding or the Sale. If held, the Auction shall be conducted openly, and all creditors shall be permitted to attend, provided that such creditors provide notice of their intention to attend the Auction in compliance with the Bid Procedures. Bidding at the Auction shall be transcribed or videotaped. If only one Qualified Bid (including the bid of a Stalking Horse Bidder if one is selected) is received by the Bid Deadline for the Assets, the Auction will be deemed cancelled and that Qualified Bid, if it is otherwise accepted by the Debtor, in consultation with Wells Fargo and the Committee, will be deemed the Successful Bid for the Assets identified in the Purchase Agreement, and the Debtor will seek authority from this Court to consummate the sale contemplated by the Successful Bid.

13. The Debtor shall file a notice with the Court on September 28, 2016, or as soon thereafter as practicable, indicating the identity of the entity that submitted the Successful Bid.

14. The Debtor shall have the right to reject any and all bids that do not conform to the Bid Procedures, subject to the provisions of the Bid Procedures.

15. The Sale Hearing shall be held before this Court on **September 29, 2016 at 11:00 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel and interested parties may be heard. The Sale Hearing may be adjourned from time to time or canceled without further notice to creditors or other parties in interest (other than Wells Fargo and the Committee) other

than by announcement at the Sale Hearing or in the agenda for the Sale Hearing filed with the Court prior to the Sale Hearing.

16. The Debtor shall file with the Court the proposed form of Sale Order prior to the Sale Hearing.

17. The Sale Notice, substantially in the form annexed hereto as Exhibit 2, is approved.

18. On or before the second business day after the entry of this Bid Procedures Order, the Debtor shall serve by first class mail, postage prepaid, copies of this Bid Procedures Order and the Sale Notice, substantially in the form attached hereto as Exhibit 2, upon: (i) the United States Trustee; (ii) Wells Fargo, by its counsel; (iii) the Committee, by its counsel; (iv) all parties known by the Debtor to assert liens, claims, rights, interests or encumbrances of record in the Assets; (v) all parties having filed a notice of appearance in the Debtor's chapter 11 case; (vi) all the Debtor's known creditors; (vii) all applicable regulatory governmental agencies, federal and state taxing authorities; (viii) all parties who are known to claim interests in any of the Debtor's Contracts and Leases; and (ix) all parties known to the Debtor who have expressed an interests in purchasing the Assets (collectively, the "**Notice Parties**"). In addition, the Debtor shall cause the Sale Notice to be published at least once in the national edition of USA Today at least ten (10) days before the date the Auction is scheduled to be held. Such notice is deemed to satisfy Bankruptcy Rule 2002, and no other or further notice is required.

19. The Cure Notice, substantially in the form annexed hereto as Exhibit 3, is approved.

20. On or before the second business day after the entry of this Bid Procedures Order, the Debtor shall serve by overnight courier on each non-Debtor party to a Contract and

Lease a Cure Notice (i) identifying any Contracts or Leases to be assigned, (ii) the Debtor's proposed monetary cure amount through the date of the Sale Hearing (the "**Cure Amount**"), and (iii) the deadline to object to the proposed assumption, assignment, and/or sale of each Contract or Lease. Such notice is deemed to satisfy Bankruptcy Rule 2002, and no other or further notice is required.

21. Objections, if any, to (i) the ability to assign such Contract or Lease, or (ii) the proposed Cure Amount (in either case, a "**Contract Objection**") must (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Bankruptcy Rules; (c) be filed with the clerk of the Bankruptcy Court on or before **4:00 p.m. (prevailing Eastern Time) on September 22, 2016**, or such later date and time as the Debtor may agree (the "**Contract Objection Deadline**"); and (d) be served by first class mail, overnight mail, courier or email, so as to be received on or before the Contract Objection Deadline by: (i) the Debtor, Hi-Temp Specialty Metals, Inc., 355 Sills Road, Yonkers, New York 10904, Attn: Joe Smokovich; (ii) counsel to the Debtor, DiConza Traurig Kadish, LLP, 630 Third Avenue, New York, New York 10017, Attn: Gerard DiConza and Lance A. Schildkraut (las@dtklawgroup.com); (iii) the Office of the United States Trustee, Region 2, Alfonse D'Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Attn: Stan Yang; (iv) counsel for Wells Fargo, Otterbourg P.C., 230 Park Avenue, New York, New York 10169, Attn: Jon Helfat and Daniel F. Fiorillo; and (v) counsel to the Committee, Pepper Hamilton LLP, 19th Floor, High Street Tower, 125 High Street, Boston MA 02110, Attn: Todd Feinsmith, Esq., and Pepper Hamilton LLP, Suite 1800, 4000 Town Center, Southfield MI 48075, Attn: Deborah Kovsky-Apap, Esq. (collectively, the "**Objection Notice Parties**").

22. Except for an Adequate Assurance Objection, which may be made at the Sale Hearing, unless the non-Debtor party to a Contract and/or Lease files a Contract Objection on or before the Contract Objection Deadline, such non-Debtor party shall be forever barred from (i) contesting the Debtor's ability to assume, assign, and/or sell such Contract and/or Lease and (ii) objecting to the Cure Amount or asserting any additional cure or other claim amounts with respect to such Contract and Lease, and the Cure Amount set forth in the Cure Notice shall be the only monetary obligations due with respect to such Contract or Lease.

23. If a Contract or Lease is included in any Successful Bid or Next Highest Bid, the Debtor shall, within one business day after the conclusion of the Auction, file with the Court a notice identifying the highest or otherwise best bid and the next highest or otherwise best bid and the Contracts and Leases that such Successful Bidder and any Next Highest Bidder will seek to take assignment of from the Debtor upon the closing of the Sale. The Debtor shall serve such notice by overnight courier, email or facsimile to the non-Debtor parties to such Contracts and Leases.

24. Counterparties to the Contracts and Leases to be assumed by the Successful Bidder and any Next Highest Bidder may raise objections to the adequate assurance of future performance by such Successful Bidder and any Next Highest Bidder at the Sale Hearing (the "**Adequate Assurance Objection Deadline**").

25. Any and all objections to the sale of the Assets (a "**Sale Objection**"), other than a Contract Objection, which shall be subject to the Contract Objection Deadline, must (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Bankruptcy Rules; (c) be filed with the Clerk of the Court (with a copy to the Chambers of the Honorable Louis A. Scarcella), United States Bankruptcy Court, Eastern District of New York, Alfonse D'Amato Federal

Courthouse, 560 Federal Plaza, Central Islip, New York 11722; and (d) be served by first class mail, email, overnight mail or courier so as to be received by the Objection Notice Parties no later than **4:00p.m. (prevailing Eastern Time) on September 22, 2016** (the "**Sale Objection Deadline**").

26. Failure to file a Sale Objection on or before the Sale Objection Deadline shall be deemed to be "consent" for purposes of section 363(f) of the Bankruptcy Code or otherwise.

27. Any Sale Objection or Contract Objection that has not been resolved shall be addressed by the Court at the Sale Hearing.

28. The Debtor shall have the right as it may reasonably determine to be in the best interests of its estate (in its discretion, but in each case only after consultation with the Committee and Wells Fargo) to (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best proposal and which is the next highest or otherwise best proposal; (iv) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bid Procedures, the Bid Procedures Order or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtor and its estate; (v) waive terms and conditions set forth herein with respect to all Potential Bidders; (vi) impose additional terms and conditions with respect to all Potential Bidders; (vii) extend the deadlines set forth herein as long as it does not cause a default under the Ratification Agreement; (viii) modify the Bid Procedures as it may determine to be in the best interests of its estate; and (ix) terminate the Auction and/or reject all bids in the event that the Debtor elects to consummate a refinancing in place of the sale.

29. Notwithstanding the provisions of Bankruptcy Rule 6004 and Bankruptcy Rule 6006 (to the extent applicable) or any applicable provisions of the Local Rules, this Bid Procedures Order shall not be stayed for 14 days after the entry hereof but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in such rules is hereby expressly waived and shall not apply.

30. All persons submitting bids shall be deemed to have submitted to the jurisdiction and final adjudicatory power of this Court with respect to all matters between and among the bidder and the Debtor related to the Auction, the Sale and the terms and conditions of thereof.

31. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Bid Procedures Order.

Exhibit 1

Bid Procedures

BID PROCEDURES

Hi-Temp Specialty Metals, Inc., Chapter 11 Case No. 16-72767-las

By Motion dated August 15, 2016 Hi-Temp Specialty Metals, Inc., as debtor and debtor in possession (the “**Debtor**”), sought approval of, among other things, these procedures (“**Bid Procedures**”) through which the Debtor is authorized to conduct an auction (the “**Auction**”) for the sale (the “**Sale**”) of substantially all the Debtor’s assets (the “**Assets**”), pursuant to the terms of the form purchase agreement proposed by the Debtor (the “**Purchase Agreement**”).

On August __, 2016, the United States Bankruptcy Court for the Eastern District of New York (the “**Court**”) entered an order [Docket No. [•]] (the “**Bid Procedures Order**”), which, among other things, authorized the Debtor to determine the highest or otherwise best bid or bids for the Assets in accordance with these Bid Procedures. The Debtor reserves the right, after consultation with the Official Committee of Unsecured Creditors (the “**Committee**”) and Wells Fargo Bank, N.A., its senior secured pre-petition and post-petition lender (“**Wells Fargo**”) to: (i) waive or modify some of the Bid Procedures to the extent such waiver or modification is in the best interests of the Debtor’s estate as determined by the Debtor, in its discretion, but after consultation with the Committee and Wells Fargo.

The Debtor shall regularly consult with the Committee and Wells Fargo regarding all material aspects of the Sale process, both prior to and during the Auction.

Participation Requirements

To participate in the bidding process, an entity or person interested in the acquisition of the Assets or in making a loan sufficient to consummate a refinancing of Wells Fargo’s indebtedness (a “**Potential Bidder**”) must deliver, on or before **September 20, 2016**, evidence of the Potential Bidder’s ability to consummate the transaction to CohnReznick Capital Markets Securities LLC (“**CRCMS**”), Investment Banker for the Debtor, Attn: Jeffrey R. Manning, 500 E Pratt Street, Baltimore, MD 21202 (jeff.manning@crcms.com).

A “**Qualified Bidder**” is a bidder whose financials or other information demonstrate the financial capability and sophistication to consummate and perform obligations in connection with the sale and which the Debtor determines is reasonably likely to make a bona fide offer and would be able to consummate a proposed sale if selected as the “**Successful Bidder**”. A bid received from a Qualified Bidder that meets the requirements set forth herein will be considered a “**Qualified Bid**” if the Debtor (in its discretion, but after consultation with the Committee and Wells Fargo) believes that such bid would be consummated if selected as a Successful Bid.

Each Qualified Bidder shall comply with all reasonable requests for additional information by the Debtor or its advisors regarding such Qualified Bidder's financial wherewithal to consummate and perform obligations in connection with a Sale. Failure by a Qualified Bidder to comply with requests for additional information may be a basis for the Debtor to determine that a bid made by such Qualified Bidder is not a Qualified Bid.

Obtaining Due Diligence Access and Sharing of Certain Information

The Debtor shall provide each Qualified Bidder reasonable due diligence information as requested, including access to the data room established by CRCMS to facilitate the provision of due diligence materials to Qualified Bidders. Due diligence requests should be directed to CRCMS, Attn: Jeffrey R. Manning, 500 E Pratt Street, Baltimore, MD 21202; jeff.manning@crcms.com; Phone: (410) 690-8788. Each bidder is solely responsible for conducting its own due diligence and must complete its due diligence prior to the submission of its bid. The due diligence period will end on the Bid Deadline (defined below). No conditions relating to the completion of due diligence shall be permitted to exist after the Bid Deadline.

Non-Debtor parties to executory contracts (each, a "**Contract**") and unexpired leases (each, a "**Lease**") with the Debtor may request, in writing, a copy of the information that is provided to the Debtor by a Qualified Bidder for the Assets to demonstrate adequate assurance of future performance by such Qualified Bidder that indicates intent to take assignment of such Contract and/or Lease in its Qualified Bid (defined below). Such requests may be directed to CRCMS via email at jeff.manning@crcms.com. Any such requests from non-Debtor parties to Contracts and Leases that provide an electronic mail address where such information may be sent will receive such information via electronic mail on or before September 26, 2016. Notwithstanding the forgoing, any requests for adequate assurance of future performance that require the provision of confidential and/or proprietary information of a Qualified Bidder will be provided to the non-Debtor counterparty to the applicable Contract or Lease, subject to the non-Debtor counterparty's execution of a confidentiality agreement in a form acceptable to the Debtor.

Bid Deadline

The deadline for Qualified Bidders to submit their bids shall be September 22, 2016 at 5:00 p.m. (prevailing Eastern Time) (the "Bid Deadline").

Prior to the Bid Deadline, a Qualified Bidder that desires to make a bid for the Assets or for a Refinancing shall deliver written copies of its bid via electronic or regular mail to: (i) the Debtor's Investment Banker, CRCMS, Attn: Jeffrey R. Manning, jeff.manning@crcms.com, 500 E Pratt Street, Baltimore, MD 21202, tel. (410) 690-8788; (ii) Debtor's counsel, DiConza Traurig Kadish LLP, Attn: Gerard DiConza, gdiConza@dtklawgroup.com; (iii) counsel for Wells Fargo, Otterbourg P.C., 230 Park Avenue, New York, New York 10169, Attn: Jon Helfat, jhelfat@otterbourg.com, and Daniel F. Fiorillo, dfiorillo@otterbourg.com; and (iv) counsel to the Committee, Pepper Hamilton LLP, 19th Floor, High Street Tower, 125 High Street, Boston MA 02110, Attn: Todd Feinsmith, Esq. feinsmitht@pepperlaw.com, and Pepper Hamilton LLP, Suite 1800, 4000 Town Center, Southfield MI 48075, and Attn: Deborah Kovsky-Apap, Esq., kovskyd@pepperlaw.com. The Debtor may extend the Bid Deadline at its sole discretion after consultation with the Committee and Wells Fargo.

Qualified Bid Requirements

A bid must be a written irrevocable offer from a Qualified Bidder and:

1. State that the Qualified Bidder offers to consummate the sale pursuant to an agreement that has been marked to show any amendments and modifications to the Purchase Agreement; *provided, however*, that if a bidder proposes to acquire the Debtor's business through a transfer including a plan of reorganization, the Debtor, after consultation with Wells Fargo and the Committee, reserves the right to deem such a bidder a Qualified Bidder despite any non-conformance of the proposed acquisition documentation (such purchase agreement or alternative documentation shall be referred to as the "**Marked Purchase Agreement**");
2. Confirm that such Qualified Bidder's offer shall remain open and irrevocable until the closing of the sale of the Assets to the applicable Successful Bidder or the Next Highest Bidder;
3. Enclose a copy of the proposed Marked Purchase Agreement as well as an executed "clean" copy of the Marked Purchase Agreement;
4. Propose terms for a sale with Cash Consideration (as defined in the Purchase Agreement) in an amount sufficient to satisfy the Wells Fargo Allowed Claim¹ in full at Closing;
5. Contain a list of the Debtor's Contracts and Leases that the Qualified Bidder desires to assume and a packet of information, including financial information, that will be provided to the non-Debtor parties to such Contracts and Leases sufficient to demonstrate adequate assurance of future performance;
6. Provide that the Qualified Bidder will pay all cure costs associated with the Contracts and Leases identified for assumption by such bidder;
7. Be accompanied by a wire transfer of a minimum good faith deposit (the "**Minimum Deposit**") in an amount equal to at least 5% of the Purchase Price (as defined in the Purchase Agreement) identified in the Marked Purchase Agreement, which Minimum Deposit shall be used to fund a portion of the applicable Purchase Price and shall be increased to 10% of the Purchase Price at least one business day prior to the Sale Hearing if the Qualified Bidder is selected as a Successful Bidder or the Next Highest Bidder;
8. Provide that the Sale of the Assets shall close on or before **October 3, 2016**, unless otherwise agreed to by the Debtor, after consultation with Wells Fargo and the Committee;

¹ As of August 15, 2016, the "Allowed Claim" of Wells Fargo is approximately \$11 million, *plus* interest, *plus* the amount of all of Wells Fargo's reasonable post-petition fees, costs, and expenses regarding the Debtor, *minus* (iv) any amounts actually paid with respect to the items set forth in the preceding clauses (i), (ii), and (iii) by the Debtor during its chapter 11 case. The Debtor will provide a more precise figure to Qualified Bidders on or before the Bid Deadline.

9. Be on terms that are not materially more burdensome or conditional than the terms of the Purchase Agreement;
10. Not be conditioned on obtaining financing or the outcome of any due diligence by the Qualified Bidder;
11. Not request or entitle the Qualified Bidder to any break-up fee, expense reimbursement or similar type of payment;²
12. Fully disclose the identity of each entity that will be bidding for the Assets and any connections or agreements between such entity and the Debtor and its affiliates and/or any officer, director, or direct or indirect equity security holder of the Debtor and its affiliates; and
13. If a Stalking Horse Bidder is selected, (a) the Debtor shall file with the Court an amended Purchase Agreement, which shall supersede the original Purchase Agreement and shall be used by Potential Bidders in submitting a Marked Purchase Agreement; and (b) any other Qualified Bid shall be required to be in an amount not less than the sum of (i) the Purchase Price, plus (ii) the Break-Up Fee and Expense Reimbursement (each as defined in the Purchase Agreement), plus (iii) \$100,000 (together, the "**Minimum Initial Overbid**"); *provided, however*, that all bids must propose Cash Consideration in an amount sufficient to satisfy the Wells Fargo Allowed Claim in full.

A bid received from a Qualified Bidder that meets the requirements set forth above will be considered a "Qualified Bid" if the Debtor (in its discretion, but after consultation with the Committee and Wells Fargo) believes that such bid would be consummated if selected as a Successful Bid (as defined herein). If the Debtor receives a bid that is not a Qualified Bid, the Debtor, after consultation with the Committee and Wells Fargo, may provide the Potential Bidder with the opportunity to remedy any deficiencies.

Prior to the commencement of the Auction, the Debtor shall determine (in its discretion, but after consultation with the Committee and Wells Fargo) which Qualified Bid represents the then-highest or otherwise best bid (the "**Initial Bid**").

Stalking Horse Bidder

The Debtor may enter into an agreement for the Sale with a Potential Bidder (such bidder, the "**Stalking Horse Bidder**") prior to the Auction. The following procedures and protections shall apply with respect to a Stalking Horse Bidder:

² The form Purchase Agreement provides for a break-up fee and expense reimbursement. As discussed below, such bid protections shall only be available, to the extent approved by the Court, to the Stalking Horse Bidder if one is selected. A Qualified Bidder should therefore remove such provisions when submitting a Marked Purchase Agreement, to the extent that the form Purchase Agreement is not superseded by an updated Purchase Agreement in the event that a Stalking Horse Bidder is selected.

1. Selection of Stalking Horse Bidder. The Debtor shall have authority to select a Stalking Horse Bidder, upon consultation with Wells Fargo and the Committee. A party shall be eligible to be designated a Stalking Horse Bidder so long as (i) it enters into a signed Purchase Agreement (which may or may not substantially conform to the Purchase Agreement) by **September 15, 2016**, and (ii) it tenders the Minimum Deposit. In the event that the Debtor selects a Stalking Horse Bidder, the Stalking Horse Bidder shall be deemed to be a Qualified Bidder and to have submitted a Qualified Bid.
2. Bid Protections. If the Debtor consummates a transaction other than a transaction with the Stalking Horse Bidder, then to the extent provided in the Purchase Agreement, the Stalking Horse Bidder shall be entitled to the following protections (the “**Bid Protections**”): (i) a Break-Up Fee in an amount up to 3% of the Purchase Price, and (ii) an Expense Reimbursement in an amount equal to the reasonable out-of-pocket costs, fees and expenses incurred by the Stalking Horse Bidder (including fees and expenses of legal, accounting and financial advisors) in connection with the Purchase Agreement in an amount not to exceed \$100,000.

Auction

If the Debtor receives more than one Qualified Bid (including the bid of a Stalking Horse Bidder if one is selected) from a Qualified Bidder by the Bid Deadline, an auction (the “**Auction**”) will take place on **September 27 at 10:00 a.m. (prevailing Eastern Time)** at the offices of CohnReznick LLP, 1301 Avenue of the Americas, New York, New York 10019, or such other time or place as the Debtor may provide so long as such change is communicated reasonably in advance by the Debtor to all Qualified Bidders, the Committee and Wells Fargo.

CRCMS shall direct and preside over the Auction at the direction of the Debtor, in consultation with its advisors, the Committee and Wells Fargo. If only one Qualified Bid (including the bid of a Stalking Horse Bidder if one is selected) is received by the Bid Deadline, the Auction will be deemed cancelled and that Qualified Bid, if it is otherwise accepted by the Debtor, after consultation with Wells Fargo and the Committee, will be deemed the Successful Bid for the Assets identified in the Purchase Agreement, and the Debtor will seek authority from the Court to consummate the Sale contemplated by the Qualified Bid.

If an Auction is held, the following rules for its conduct, which are subject to waiver or modification, in the Debtor’s discretion, after consultation with the Committee and Wells Fargo, shall be observed:

1. Only a Qualified Bidder who has submitted a Qualified Bid by the Bid Deadline will be eligible to participate at the Auction.
2. Each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding.

3. Qualified Bidders will be permitted to increase their bids, and bidding shall start at the Purchase Price stated in the Initial Bid and then continue in increments as determined by the Debtor and announced at the commencement of the Auction.
4. Immediately prior to concluding the Auction, the Debtor shall, after consultation with Wells Fargo and the Committee:
 - a. review each Qualified 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;
 - b. determine and identify the highest or otherwise best Qualified Bid (the "**Successful Bid**") and the Qualified Bidder submitting such bid (the "**Successful Bidder**");
 - c. determine and identify the next highest or otherwise best Qualified Bid after the Successful Bid (the "**Next Highest Bid**") and the Qualified Bidder submitting such bid (the "**Next Highest Bidder**"); and
 - d. have the right to reject any and all bids.
5. Within one business day of the completion of the Auction, the Successful Bidder shall increase its deposit to 10% of the Purchase Price and complete and execute all agreements, instruments, or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made. The Debtor shall have the right to reject any and all bids that do not conform to the Bid Procedures.

Acceptance of the Successful Bid

The Debtor shall file a notice identifying the Successful Bidder and the Next Highest Bidder on September 28, 2016. In addition, the Debtor will present the results of the Auction to the Court at the Sale Hearing (defined below), at which time certain findings will be sought from the Court regarding the Auction, including, among other things, that (i) the Auction was conducted, and the Successful Bidder was selected, in accordance with these Bid Procedures, (ii) the Auction was fair in substance and procedure, and (iii) consummation of the Sale contemplated by the Successful Bid will provide the highest or otherwise best bid and is in the best interests of the Debtor and its creditors.

If an Auction is held, the Debtor shall be deemed to have accepted a Qualified Bid only when (i) such bid is declared the Successful Bid at the Auction, (ii) the Successful Bidder increases its Minimum Deposit to 10% of the Purchase Price, and (iii) definitive documentation has been executed in respect thereof. Such acceptance is conditioned upon approval by the Court and the entry of an Order approving such Successful Bid. The Successful Bid and Next Highest Bid will

remain open until the closing of the sale with the applicable Successful Bidder or Next Highest Bidder.

Sale Hearing

A hearing to consider approval of the sale to the Successful Bidder will take place on **September 29, 2016 at 11:00 a.m. (prevailing Eastern Time)** before the Honorable Louis A. Scarcella, United States Bankruptcy Court, Eastern District of New York, Alfonse D'Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722. Each of the Successful Bidder and Next Highest Bidder must produce a competent witness at the Sale Hearing to provide testimony, if necessary, to establish adequate assurance of future performance by each such bidder under the unexpired leases and executory contracts to be assigned to such bidder.

If (i) an Auction is held, (ii) the Successful Bidder and the Next Highest Bidder are selected, (iii) the Court approves the sale with the Successful Bidder, and (iv) the sale with such Successful Bidder is not consummated because of a breach or failure to perform on the part of such Successful Bidder, then the Debtor shall be authorized to consummate a transaction with the Next Highest Bidder without further court order or notice to any other party (other than to Wells Fargo and the Committee), and the defaulting Successful Bidder and/or Next Highest Bidder shall forfeit its/their Minimum Deposit in accordance with such Successful Bidder's and/or Next Highest Bidder's Marked Agreement. The Debtor specifically reserves the right to seek all additional damages from, and exercise all remedies against, a defaulting Successful Bidder and/or Next Highest Bidder.

Return of Minimum Deposit

Except as otherwise provided in the Bid Procedures with respect to any Successful Bid and any Next Highest Bid, the Minimum Deposits tendered under the Bid Procedures shall be returned to any Qualified Bidders that are not designated as the Successful Bidder or Next Highest Bidder within one business day after the entry of an order approving the sale. The Minimum Deposit of the Successful Bidder shall be held until the closing of the sale and applied to the Purchase Price. The Minimum Deposit of the Next Highest Bidder shall be returned upon or within two (2) business days after closing of the applicable sale to the Successful Bidder.

Exhibit 2

Sale Notice

Auction Date and Time: 9/27/2016 at 10:00 a.m.
 Sale Hearing Date and Time: 9/29/2016 at 11:00 a.m.
 Objection Deadline: 9/22/2016 at 4:00 p.m.

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 630 Third Avenue
 New York, New York 10017
 Gerard DiConza
 Lance A. Schildkraut
 Tel: (212) 682-4940
 Email: gdiConza@dtklawgroup.com
las@dtklawgroup.com

Counsel to the Debtor and Debtor-in-Possession

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF NEW YORK

-----X	
In re	:
	:
HI-TEMP SPECIALTY METALS, INC.,	:
	:
Debtor.	:
-----X	

Chapter 11
 Case No. 16-72767-las

NOTICE OF AUCTION AND SALE HEARING

PLEASE TAKE NOTICE that, on August 15, 2016, the above-captioned debtor and debtor in possession (the “**Debtor**”) filed its motion (the “**Motion**”)¹ for entry of (a) an order (the “**Bid Procedures Order**”), (i) approving sale procedures (the “**Bid Procedures**”) for the sale (the “**Sale**”) of all or substantially all of the Debtor’s assets (collectively, the “**Assets**”); (ii) approving stalking horse protections; (iii) scheduling a hearing (the “**Sale Hearing**”) on the Sale and setting objection, bidding, and related deadlines with respect to the Sale; (iv) approving the form of notice of the Auction, Bid Procedures and Sale Hearing, substantially in the form annexed as Exhibit 2 to the Bid Procedures Order (the “**Auction and Sale Notice**”), and the form and manner of notice of the assumption, assignment, and/or sale of executory contracts and unexpired leases and related cure amounts, if any, substantially in the form annexed as Exhibit 3 to the Bid Procedures Order (the “**Cure Notice**”); and (v) granting related relief; and (b) an order, substantially in the form to be filed in advance of the Sale Hearing (the “**Sale Order**”), (i) authorizing the Sale of the Assets free and clear of liens, claims encumbrances, and other interests pursuant to the terms of the purchase agreement (the “**Purchase Agreement**”);² (ii) authorizing and approving the Purchase Agreement; (iii) approving the assumption, assignment, and/or sale of executory contracts and unexpired leases, as necessary, in connection with the Sale; (iv) providing for the indefeasible payment of net proceeds from the Sale of the Assets to Wells Fargo Bank, National Association (“**Wells Fargo**”) pursuant to the Ratification and

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

² The form of the Purchase Agreement will be filed with the Court in the near term.

Amendment to the Amended and Restated Credit and Security Agreement dated July 19, 2016 (the “**Ratification Agreement**”) by and among Debtor and Wells Fargo to the extent necessary to fully satisfy the “Wells Fargo Allowed Claim”, and approved by Order dated August 5, 2016 (the “**Interim DIP Order**”) authorizing the Debtor to obtain post-petition financing on a senior secured, superpriority basis from Wells Fargo; and (v) granting related relief.

PLEASE TAKE FURTHER NOTICE that the Debtor is seeking to sell the Assets to the Successful Bidder. Approval of the Sale to the Successful Bidder may result in, among other things, the assumption, assignment, and/or sale by the Debtor of certain executory contracts or leases. If you are a party to an executory contract or lease with a Debtor, you will receive a separate notice that contains relevant dates and other information that may impact you as a party to an executory contract or lease.

PLEASE TAKE FURTHER NOTICE that, on August [___], 2016, the Court entered the Bid Procedures Order [Docket No. [___]]. Pursuant to the Bid Procedures Order, the Auction shall take place on September __, 2016 at 10:00 a.m. (prevailing Eastern Time) at the offices of CohnReznick LLP, 1301 Avenue of the Americas, New York, New York 10019. Only a Qualified Bidder that has submitted a Qualified Bid no later than September __, 2016 at 5:00 p.m. (prevailing Eastern Time) (the “**Bid Deadline**”) may participate in the Auction. Any party that wishes to take part in this process and submit a bid for the Assets must submit their Qualified Bid prior to the Bid Deadline and in accordance with the Bid Procedures. Parties interested in receiving information regarding the Sale of the Assets should contact the Debtor’s Investment Banker, CohnReznick Capital Markets Securities, LLC (“**CRCMS**”), Attn: Jeffrey R. Manning, 500 E Pratt Street, Baltimore, MD 21202 (jeff.manning@crcms.com), telephone: (410) 690-8788.

PLEASE TAKE FURTHER NOTICE that the Court also scheduled the Sale Hearing to consider approval of the Sale of the Assets to the Successful Bidder free and clear of all liens, claims, encumbrances, and interests before the Honorable Louis A. Scarcella, United States Bankruptcy Court, Eastern District of New York, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722 on **September 29, 2016 at 11:00 a.m. (prevailing Eastern Time)**, or at such other time thereafter as counsel may be heard. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest (other than Wells Fargo and the Committee) other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Sale, or the relief requested in the Motion must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) be filed with the Clerk of the Bankruptcy Court for the Eastern District of New York, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, on or before 4:00 p.m. (prevailing Eastern Time) on September 22, 2016 (the “**Sale Objection Deadline**”), or such later date and time as the Debtor may agree and (d) be served so as to be received on or before the Sale Objection Deadline by (i) the Debtor, Hi-Temp Specialty Metals, Inc., 355 Sills Road, Yonkers, New York 11980, Attn: Joe Smokovich; (ii) counsel to the Debtor, DiConza Traurig Kadish, LLP, 630 Third Avenue, New York, New York 10017, Attn: Lance A. Schildkraut; (iii) the Office of the United States Trustee, Region 2, Alfonse D’Amato

Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Attn: Stan Yang; (iv) counsel for Wells Fargo, Otterbourg P.C., 230 Park Avenue, New York, New York 10169, Attn: Jon Helfat and Daniel F. Fiorillo; and (v) counsel to the Committee, Pepper Hamilton LLP, 19th Floor, High Street Tower, 125 High Street, Boston MA 02110, Attn: Todd Feinsmith, Esq., and Pepper Hamilton LLP, Suite 1800, 4000 Town Center, Southfield MI 48075, Attn: Deborah Kovsky-Apap, Esq.

PLEASE TAKE FURTHER NOTICE that this Notice of Auction and Sale Hearing is subject to the fuller terms and conditions of the Bid Procedures Order, the Bid Procedures, and the Motion, which shall control in that order in the event of any conflict, and the Debtor encourages parties in interest to review such documents in their entirety. Copies of the Motion, the Purchase Agreement, the Bid Procedures and the Bid Procedures Order may be obtained by written request to counsel to the Debtor at las@dtklawgroup.com. In addition, copies of the aforementioned pleadings may be found on the Bankruptcy Court's website, www.nyeb.uscourts.gov.

PLEASE TAKE FURTHER NOTICE THAT THE FAILURE TO ABIDE BY THE PROCEDURES AND DEADLINES SET FORTH IN THE BID PROCEDURES ORDER AND THE BID PROCEDURES MAY RESULT IN THE FAILURE OF THE COURT TO CONSIDER A COMPETING BID OR AN OBJECTION TO THE SALE.

Dated: New York, New York
September __, 2016

DICONZA TRAURIG KADISH LLP
Counsel for the Debtor

By: _____

Gerard DiConza
630 Third Avenue
New York, New York 10017
Tel: (212) 682-4940
Email: gdiconza@dtklawgroup.com

Exhibit 3

Cure Notice

DICONZA TRAURIG KADISH LLP
 630 Third Avenue
 New York, New York 10017
 Gerard DiConza
 Lance A. Schildkraut
 Tel: (212) 682-4940
 Email: gdiconza@dtklawgroup.com
las@dtklawgroup.com

Counsel to the Debtor and Debtor-in-Possession

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF NEW YORK

-----X		
In re	:	
	:	Chapter 11
HI-TEMP SPECIALTY METALS, INC.,	:	Case No. 16-72767-las
	:	
Debtor.	:	
-----X		

NOTICE REGARDING (A) EXECUTORY CONTRACTS AND UNEXPIRED LEASES THAT MAY BE ASSUMED, ASSIGNED, AND/OR SOLD; (B) CURE AMOUNTS, IF ANY; AND (C) RELATED PROCEDURES IN CONNECTION THEREWITH

TO ALL COUNTERPARTIES TO THE DEBTOR’S EXECUTORY CONTRACTS AND UNEXPIRED LEASES:

PLEASE TAKE NOTICE that upon the motion [Docket No.] (the “**Motion**”)¹ of the debtor and debtor in possession in the above-captioned case (the “**Debtor**”), the United States Bankruptcy Court for the Eastern District of New York (the “**Court**”) entered an order (the “**Bid Procedures Order**”) on August [__], 2016 approving certain procedures (the “**Assumption and Assignment Procedures**”) for the assumption, assignment, and/or sale of certain of the Debtors’ executory contracts (the “**Contracts**”) and unexpired leases (the “**Leases**”) in connection with the sale of substantially all of the Debtor’s assets (the “**Sale**”).

The determination to assume the Contracts and/or Leases identified on the schedule attached hereto as Exhibit 1 (the “**Cure Notice**”) was made as of September __, 2016 and is subject to revision. Additionally, the cure amounts reflected herein and on the Cure Notice were calculated as of September __, 2016 and may be subject to upward or downward adjustment.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

PLEASE TAKE FURTHER NOTICE that the Debtor is proposing to assume the Contracts and/or Leases listed on the Cure Notice to which you are counterparty.²

PLEASE TAKE FURTHER NOTICE that you are receiving this notice because the Debtor's records reflect that you are counterparty to a Contract or Lease with the Debtor that has not been assumed or rejected as of the date hereof. The Debtor may elect to assume or reject your Contract(s) or Lease(s) in connection with the Sale at the Sale Hearing (as defined below). The Debtor reserves all rights with respect to the assumption or rejection of any Contract or Lease in the event there is no Sale. **Accordingly, if you are counterparty to a Contract or Lease with the Debtor, your Contract or Lease may be assumed by the Debtor.**

PLEASE TAKE FURTHER NOTICE that you are hereby advised to review carefully the information contained in this notice, the Motion, and the Bid Procedures Order. If you would like to obtain a copy of the Cure Notice, the Motion, the Bid Procedures Order, the asset purchase agreement the Debtor seeks to have approved pursuant to the Motion, or any other pleadings filed in the Debtor's chapter 11 case, you should contact the Debtor's bankruptcy counsel at: DiConza Traurig Kadish LLP, 630 Third Avenue, New York, New York 10017, Attn: Lance A. Schildkraut, Esq., las@dtklawgroup.com, tel: (212) 682-4940. You may also obtain copies of any pleadings filed in the Debtor's Chapter 11 Case for a fee at the Court's website at <http://www.nyeb.uscourts.gov>, for registered users of the Public Access to Court Electronic Records (PACER) System.

PLEASE TAKE FURTHER NOTICE that section 365(b)(1) of the Bankruptcy Code requires that the Debtor cure, or provide adequate assurance that it will promptly cure, any defaults under the executory contracts and unexpired leases at the time of assumption. Accordingly, the Debtor has conducted a thorough review of its books and records and has determined the amounts required to cure monetary defaults, if any, under the Contract(s) or Lease(s). These amounts are set forth on Exhibit 1 hereto. Please note that if no amount is stated for a particular Contract or Lease, the Debtor believes that there is no cure amount outstanding for such Contract or Lease.

PLEASE TAKE FURTHER NOTICE that absent any Contract Objection (as defined below), the monetary amounts required to cure any existing defaults arising under the Contract(s) or Lease(s) identified above will be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by the purchaser of the Debtor's Assets in cash upon closing of the Sale or as otherwise agreed by the Debtor and the counterparty to any such Contract(s) or Lease(s). In the event of a dispute and the Debtor prevails with respect to the cure amount set forth on the Cure Notice, payment of that amount shall be made no later than the later of [____] business days following the entry of a final order resolving the dispute and approving the assumption, or [____] business days following the closing of the Sale to the Successful Bidder. If an objection to the

² Neither the exclusion nor inclusion of any Contract or Lease on the Cure Notice shall constitute an admission by the Debtor that any such Contract or Lease is in fact an executory contract or unexpired lease capable of assumption under section 365 of the Bankruptcy Code or that such Contract or Lease is necessarily a binding and enforceable agreement. Further, the Debtor expressly reserves the right to (i) remove any Contract or Lease from the Cure Notice and reject such Contract or Lease as permitted under the Bankruptcy Code and (ii) contest any claim (or claim amount) asserted in connection with assumption of any Contract or Lease.

proposed assumption or related cure amount is sustained by the Court, however, the Debtor, with the consent of the purchaser, may elect to reject such Contract(s) or Lease(s) in lieu of assuming it.

PLEASE TAKE FURTHER NOTICE that the hearing at which the Court will consider approval of the Sale (the “**Sale Hearing**”) will commence at **11:00 a.m. (prevailing Eastern Time) on September 29, 2016**, before the Honorable Louis A. Scarcella, United States Bankruptcy Court, Eastern District of New York, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Courtroom No. 970, and may be continued from time to time without further notice. Any objection (a “**Contract Objection**”) to (i) the ability to assign a Contract(s) or Lease(s) or (ii) any proposed cure amounts related thereto must be **actually received on or before 4:00 p.m. (prevailing Eastern Time) on September 22, 2016**, or such later date and time as the Debtor may agree (the “**Contract Objection Deadline**”). Any Contract Objection must: (a) be in writing; (b) conform to the Bankruptcy Rules and the Local Rules; (c) state the name and address of the objecting party and the amount and nature of the claim of such entity; (d) state with specificity the nature of the objection and, if the objection pertains to the proposed cure amount, the correct cure amount alleged by the objecting counterparty, together with any applicable and appropriate documentation in support thereof; and (e) be filed, contemporaneously with a proof of service, with the Court and served so that it is actually received no later than the Contract Objection Deadline by the following parties: (i) the Debtor, Hi-Temp Specialty Metals, Inc., 355 Sills Road, Yonkers, New York 10901, Attn: Joe Smokovich; (ii) counsel to the Debtor, DiConza Traurig Kadish, LLP, 630 Third Avenue, New York, New York 10017, Attn: Lance A. Schildkraut (las@dtklawgroup.com); (iii) the Office of the United States Trustee, Region 2, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Attn: Stan Yang; (iv) counsel for Wells Fargo, Otterbourg P.C., 230 Park Avenue, New York, New York 10169, Attn: Jon Helfat and Daniel F. Fiorillo; and (v) counsel to the Committee, Pepper Hamilton LLP, 19th Floor, High Street Tower, 125 High Street, Boston MA 02110, Attn: Todd Feinsmith, Esq., and Pepper Hamilton LLP, Suite 1800, 4000 Town Center, Southfield MI 48075, Attn: Deborah Kovsky-Apap, Esq.

PLEASE TAKE FURTHER NOTICE that Objections to the adequate assurance of future performance by a Successful Bidder and/or Next Highest Bidder may be raised at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that any objections to the assumption, assignment, and/or sale of the Contract(s) or Lease(s) identified on the Cure Notice and/or related cure or adequate assurances proposed that remain unresolved as of the Sale Hearing will be heard at the Sale Hearing (or such other date as fixed by the Court).

PLEASE TAKE FURTHER NOTICE that any counterparty to a Contract(s) or Lease(s) that fails to object timely to the proposed assumption, assignment, and/or sale and/or cure amount will be deemed to have consented to such assumption, assignment, and/or sale and/or cure amount.

PLEASE TAKE FURTHER NOTICE THAT ASSUMPTION OF ANY CONTRACT(S) OR LEASE(S) SHALL RESULT IN THE FULL RELEASE AND

SATISFACTION OF ANY CLAIMS OR DEFAULTS, WHETHER MONETARY OR NONMONETARY, INCLUDING DEFAULTS OF PROVISIONS RESTRICTING THE CHANGE IN CONTROL OR OWNERSHIP INTEREST COMPOSITION OR OTHER BANKRUPTCY-RELATED DEFAULTS, ARISING UNDER ANY ASSUMED CONTRACT(S) OR LEASE(S) AT ANY TIME BEFORE THE DATE ON WHICH THE DEBTOR ASSUMES SUCH CONTRACT(S) OR LEASE(S).

Dated: New York, New York
September __, 2016

DICONZA TRAURIG KADISH LLP
Counsel for the Debtor

By: _____

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