

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
Robbins Bros. Corporation,)	Case No. 09-10708 (PJW)
)	
Debtor. ¹)	
)	

BIDDING PROCEDURES

The captioned debtor and debtor in possession (the "Debtor") has filed a chapter 11 case pending in the Bankruptcy Court² and administered under Case No. 09-10708 (PJW). By motion dated March 4, 2009 (the "Motion"), the Debtor sought, among other things, approval of the process and procedures set forth below (the "Bidding Procedures") through which it will determine the highest and best offer for substantially all of the Debtor's assets (the "Assets") other than certain assets related to the Debtor's Chicago area and Houston area stores and other Excluded Assets as set forth in the Agreement (as defined below). On March [], 2009, the Bankruptcy Court entered its order (the "Bidding Procedures Order"), which, among other things, approved the Bidding Procedures.

On May 6, 2009, as further described below, in the Motion and in the Bidding Procedures Order, the Bankruptcy Court shall conduct the Sale Hearing at which the Debtor shall seek entry of the Sale Order authorizing and approving either (i) the sale of the Assets (the "Transaction")

¹ The last four digits of the Debtor's federal tax identification number are: Robbins Bros. Corporation (8887). The Debtor's address is 1300 W. Optical Drive, Suite 200, Azusa, CA 91702.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

to the Buyer (defined below) or to one or more other Qualified Bidders (defined below) or (ii) going-out-of-business, store closing or similar theme liquidation sale of the Assets (an "Alternative Transaction") that the Debtor, after consultation with the Secured Lenders (as defined herein), in the event such party is not a bidder for any of the Assets, and the Official Committee of Unsecured Creditors of the Debtor (the "Committee"), determines to have made the highest and/or best offer.

Agreement

On March 3, 2009, the Debtor entered into an asset purchase agreement (the "Agreement") with Robbins Bros. Jewelry, Inc. (the "Buyer"), pursuant to which the Buyer proposes to acquire the Assets. Pursuant to the Agreement, the Buyer would provide consideration for the Assets as provided in the Agreement (the "Purchase Price"). The transaction contemplated by the Agreement is subject to competitive bidding as set forth herein, and approval by the Bankruptcy Court pursuant to Bankruptcy Code §§ 363 and 365.

Assets for Sale or Liquidation

The Debtor is offering for sale or liquidation all or substantially all of the assets of the Debtor as a going concern or as part of a liquidation. The assets for sale or liquidation do not include the Excluded Assets as more fully set forth in the Agreement.

Participation Requirements

In addition to the Bid requirements set forth below, in order to participate in the bidding process and to or otherwise be considered for any purpose hereunder, a person interested in all or

portions of the Assets (a "Potential Bidder") must first deliver (unless previously delivered) to the Debtor and its counsel, not later than April 29, 2009:

1. Confidentiality Agreement. An executed confidentiality agreement in form and substance acceptable to the Debtor and its counsel (a "Confidentiality Agreement"); and
2. Identification of Potential Bidder. Concurrently with its Bid, identification of the Potential Bidder and any Principals (defined below), and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction; and

3. Corporate Authority. Concurrently with its bid, written evidence satisfactory to the Debtor of the Potential Bidder's chief executive officer or other appropriate senior executive's approval of the contemplated transaction; and

- Except with respect to a party submitting a Bid that is solely a credit **
4. Proof of Ability to Perform. Prior to or at the time of presentation of a Bid, written evidence that the Debtor reasonably concludes demonstrates the Potential Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance under all contracts and leases to be assumed in such contemplated transaction. Such information should include, *inter alia*, the following:

- (a) the Potential Bidder's current financial statements (audited if they exist);
- (b) contact names and numbers for verification of financing sources;
- (c) evidence of the Potential Bidder's internal resources and proof of any debt or equity funding commitments that is needed to close the contemplated transaction;
- (d) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor demonstrating that such Potential Bidder has the ability to close the contemplated transaction; provided, however, that the Debtor shall determine, in its reasonable discretion, in consultation with the Debtor's advisors, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Potential Bidder's financial qualifications;
- (e) information regarding the proposed use of the premises with regard to the leases to be assumed in the contemplated transaction;
- (f) information regarding the Potential Bidder's prior experience in the retail industry, if any; and
- (g) other such documentation as the Debtor may reasonably request.

** - for property in which it asserts a first priority lien,*

The foregoing requirements are referred to herein as the "Participation Requirements."

The Debtor will provide by e-mail to nondebtor counterparties to contracts and leases that may be assumed and assigned ("Affected Counterparties"), a copy of the documents and information provided by the Bidder pursuant to Participation Requirement 4 above ("Alternative Buyer Adequate Assurance Information") as soon as practicable, but no later than the earlier of (i) [6:00] p.m. Eastern time on April 29 or (ii) one business day after the Debtor's receipt of such Alternative Buyer Adequate Assurance Information. The Affected Counterparties and their respective counsel and agents shall hold such Alternative Buyer Adequate Assurance Information in confidence and for use solely in the determination as to whether the Bidder can offer adequate assurance of future performance in the event of assignment of the applicable contract or lease to that Bidder.

Designation as Qualified Bidder

A "Qualified Bidder" is a Potential Bidder (or combination of Potential Bidders whose bids for the assets of the Debtor do not overlap and who shall also be referred to herein as a single Qualified Bidder) that delivers the documents described in subparagraphs 1, 2, 3 and 4 above, and that the Debtor in its discretion and with assistance from its advisors, and in consultation with Wells Fargo Bank, National Association and Paradox Syndication LLC (collectively, the "Secured Lenders", provided that if any such party is a bidder for any of the Assets, such party will not constitute a Secured Lender for purposes of these Bid Procedures only) and the Committee, determines is reasonably likely to submit a *bona fide* offer that would result in greater cash value being received for the benefit of the Debtor's creditors than under the

Agreement and to be able to consummate a sale if selected as a Successful Bidder (defined below).

Upon the receipt from a Potential Bidder of the information required under subparagraphs 1-4 above, the Debtor, as soon as is practicable, shall determine in its sole discretion and notify the Potential Bidder with respect to whether such Potential Bidder is a Qualified Bidder.

The Buyer (together with any assigns) is a Qualified Bidder and is deemed to satisfy all Bid Requirements (hereinafter defined).

Access to Due Diligence Materials

Only Potential Bidders that execute and deliver a Confidentiality Agreement are eligible to receive due diligence access or additional non-public information. If the Debtor determines, after consultation with the Secured Lenders and the Committee, that a Potential Bidder that has satisfied the Participation Requirements does not constitute a Qualified Bidder, then such Potential Bidder's right to receive due diligence access or additional non-public information shall terminate. The Debtor will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from such Qualified Bidders. The Debtor shall not be obligated to furnish any due diligence information after the Bid Deadline (as hereinafter defined). The Debtor is not responsible for, and will bear no liability with respect to, any information obtained by Qualified Bidders in connection with the sale of the Assets.

Due Diligence From Bidders

Each Potential Bidder and Qualified Bidder (collectively, a "Bidder") shall comply with all reasonable requests for additional information and due diligence access by the Debtor or its advisors regarding such Bidder and its contemplated transaction. Failure by a Potential Bidder to comply with requests for additional information and due diligence access will be a basis for the Debtor to determine that the Potential Bidder is not a Qualified Bidder. Failure by a Qualified Bidder to comply with such requests for additional information and due diligence access will be a basis for the Debtor to determine that a bid made by a Qualified Bidder is not a Qualified Bid.

BIDDING PROCESS

The Debtor and its advisors, in consultation with the Secured Lenders and the Committee, shall: (i) determine whether a Potential Bidder is a Qualified Bidder; (ii) coordinate the efforts of Bidders in conducting its due diligence investigations, as permitted by the provisions, above; (iii) receive offers from Qualified Bidders; and (iv) negotiate any offers made to purchase the Assets (collectively, the "Bidding Process"). The Debtor, in consultation with the Lenders and the Committee, shall have the right to adopt such other rules for the Bidding Process (including rules that may depart from those set forth herein) that will better promote the goals of the Bidding Process and that is not inconsistent with any of the other provisions hereof or of any Bankruptcy Court order.

Bid Deadline

The deadline for submitting bids by a Qualified Bidder shall be April 29, 2009, at 4:00 p.m. (Eastern Time) (the "Bid Deadline").

Prior to the Bid Deadline, a Qualified Bidder that desires to make an offer, solicitation or proposal (a "Bid") shall deliver written copies of its Bid by electronic email to: (i) the Debtor, Robbins Bros., 1300 West Optical Drive, Azusa, California, Attn: Steven Robbins, Chairman and Chief Executive Officer, srobbins@robbinsbros.com, with a copy to counsel for the Debtor, Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 11th Floor, Los Angeles, California 90067-4100, Attn: Jeff Pomerantz, jpomerantz@pszjlaw.com, and Pachulski Stang Ziehl & Jones LLP, 919 N. Market St., 17th Floor, Wilmington, DE 19801, Attn: Bruce Grohsgal, bgrohsgal@pszjlaw.com; (ii) investment banker to the Debtor, William Blair & Co., 222 West Adams St., Chicago, Illinois 60610, Attn: Geoffrey Richards, grichards@williamblair.com; (iii) the Buyer, c/o Weston Presidio Capital IV, L.P., Pier 1, Bay 2, San Francisco, California 94111, Attn: Therese Mrozek, _____, with a copy to Latham & Watkins, 355 South Grand Avenue, Los Angeles, California 90071, Attn: Robert Klyman, _____, lw.com; and (iv) counsel for the Committee, Cohen Tauber Spievack & Wagner, P.C., 420 Lexington Ave., Suite 2400, New York, NY 10170, Attn: Robert A. Boghosian, rboghosian@ctswlaw.com, by the Bid Deadline, provided, however, that any confidential financial information may be delivered to the Debtor and its counsel only ("Bidder Confidential Information"). The Debtor shall promptly after the Bid Deadline, but in no event later than [5 p.m.] Eastern on April 29, 2009, provide by electronic email copies of all received Bids, excluding any Bidder Confidential Information, to respective counsel for the Secured Lenders (provided that no such party has submitted a Bid).

A Bid received after the Bid Deadline shall not constitute a Qualified Bid.

Bid Requirements

To be eligible to participate in the Auction, each Bid and each Qualified Bidder submitting such a Bid must be determined by the Debtor to satisfy each of the following conditions:

Good Faith Deposit. Each Bid, other than a Bid submitted by the Buyer must be accompanied by a deposit (the "Good Faith Deposit"), in the form of a certified check or cash payable to the order of the Debtor in the amount of \$250,000. *This requirement does not apply to a Bid that is **

Minimum Overbid. The consideration proposed by the Bid may include only cash and/or other consideration acceptable to the Debtor. The aggregate consideration must equal or exceed the sum of the Purchase Price (including, without limitation, the assumption of Assumed Liabilities) plus the Break-Up Fee and Transaction Expense plus \$100,000 ("Initial Minimum Overbid Increment"). The consideration must also include sufficient cash to pay in full at the closing all obligations owed by the Debtor to Wells Fargo Bank, National Association pursuant to that certain Amended and Restated Credit Agreement dated as of January 19, 2007 (as amended or supplemented) or otherwise (the "Wells Fargo Obligations"). The Committee reserves the right to object to any determination by the Debtor of whether an incoming bid constitutes a minimum overbid.

Irrevocable. A bid must be irrevocable until the earlier of
(a) closing of the transaction with the Successful Bidder, or
(b) ten (10) days after the Sale Order has become final and non-appealable (the "Termination Date").

The Same or Better Terms. The Bid must be on terms that, in the Debtor's business judgment, after consultation with the Secured Lenders and the Committee, is substantially the same or better than the terms of the Agreement. A Bid must include an executed agreement pursuant to which the Qualified Bidder proposes to effectuate either a transaction for the purchase of the Assets or a liquidation of some or all of the Assets (the "Contemplated Transaction Documents"). A Bid shall include a copy of the Agreement marked to show all changes requested by the Bidder

* solely a credit bid pursuant to § 363(k) of the Bankruptcy Code for property in which the credit bidder asserts a first priority lien.

(including those related to the Purchase Price). The Contemplated Transaction Documents must include a commitment to close by the date on which the Sale Order becomes final and non-appealable. A Bid should propose a contemplated transaction involving all or substantially all of the Assets, provided, however, that the Debtor, after consultation with the Secured Lenders and Committee, may consider proposals for less (or more) than substantially all of the Assets, provided further that the Debtor will evaluate all Bids, in its sole discretion, to determine whether such Bid or combination of Bids maximizes the value of the Debtor's estate as a whole; provided further that a Bid cannot contain the same or better terms than set forth in the Agreement unless, at a minimum, the Bid provides for payment in full in cash of the Wells Fargo Obligations at the closing.

all of the Assets *in consultation with the Committee* *combination of the* *for substantially*

Contingencies. A Bid may not be conditioned on obtaining financing or any internal approval or otherwise be subject to contingencies more burdensome than those in the Agreement.

Financing Sources. A Bid must contain written evidence of a commitment for financing or other evidence of the ability to consummate the sale satisfactory to the Debtor with appropriate contact information for such financing sources.

No Fees Payable to Qualified Bidder. A Bid may not request or entitle the Qualified Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment. Moreover, by submitting a Bid, a Bidder shall be deemed to waive the right to pursue a substantial contribution claim under Bankruptcy Code § 503 related in any way to the submission of its Bid or the Bidding Procedures.

A Bid received from a Qualified Bidder before the Bid Deadline that meets the above requirements and that satisfies the Bid Deadline requirement above shall constitute a "Qualified Bid," if the Debtor believes, after consultation with the Secured Lenders and the Committee, that such Bid would be consummated if selected as the Successful Bid.

In the event that any Potential Bidder is determined by the Debtor, after consultation with the Secured Lenders and the Committee, not to be a Qualified Bidder, the Potential Bidder shall be refunded its Good Faith Deposit with interest thereon, if any has accrued, on or before the date that is five (5) days after Closing of the Sale.

The Debtor, after consultation with the Secured Lenders and the Committee, shall have the right to reject any and all bids that it believes, after consultation with the Secured Lenders and the Committee, do not comply with the Bidding Procedures. For purposes hereof, the Agreement shall constitute a Qualified Bid.

Auction

Only if a Qualified Bid (other than Buyer's) is received by the Bid Deadline, shall the Debtor conduct an auction (the "Auction") to determine the highest and best bid with respect to the Assets. The Debtor shall provide the Buyer and all Qualified Bidders with copies of all Qualified Bids by no later than noon on the business day following the Bid Deadline, which may exclude any Bidder Confidential Information, as determined by the Debtor in its reasonable discretion or which has been so designated by the Qualified Bidder. The Auction shall commence at 9:00 a.m. (Eastern Time) on May 5, 2009, at the offices of Pachulski, Stang, Ziehl & Jones LLP, 919 N. Market St., 17th Floor, Wilmington, DE 19801.

No later than May 5, 2009, prior to the commencement of the Auction, the Debtor will notify all Qualified Bidders of (i) the highest and best Qualified Bid, as determined by the Debtor in the Debtor's discretion (the "Baseline Bid") and (ii) the time and place of the Auction,

and provide copies of all submitted bids to all Qualified Bidders (excluding any Bidder Confidential Information).

If no higher and better offer is obtained at the Auction, then the Buyer will be deemed the Successful Bidder, the Agreement will be the Successful Bid, and, at the May 6, 2009 Sale Hearing, the Debtor will seek approval of and authority to consummate the Transaction contemplated by the Agreement.

The Auction shall be conducted according to the following procedures:

Participation At The Auction

Only a Qualified Bidder that has submitted a Qualified Bid is eligible to participate at the Auction. Only the authorized representative of each of the Qualified Bidders, the Debtor, the Secured Lenders, the Committee, and any Affected Counterparty shall be permitted to attend.

During the Auction, bidding shall begin initially with the highest Baseline Bid and subsequently continue in minimum increments of at least \$50,000 of cash consideration or other equivalent value acceptable to the Debtor. Except as otherwise set forth herein, the Debtor may conduct the Auction in the manner it determines, after consultation with the Secured Lenders and the Committee, will result in the highest and best offer for the Assets.

The Debtor Shall Conduct The Auction

The Debtor and its professionals shall direct and preside over the Auction. At the start of the Auction, the Debtor shall describe the terms of the Baseline Bid. The determination of which Qualified Bid constitutes the Baseline Bid shall take into account any factors the Debtor, after consultation with the Secured Lenders and the Committee, reasonably deems relevant to the

value of the Qualified Bid to the estate (the "Bid Assessment Criteria"). All Bids made thereafter shall be Overbids (as defined below) and shall be made and received on an open basis, and all material terms of each Bid shall be fully disclosed to all other Qualified Bidders. The Debtor shall maintain a transcript of all Bids made and announced at the Auction, including the Baseline Bid, all Overbids and the Successful Bid. The Debtor reserves the right to conduct the auction in the manner designed to maximize value based upon the nature and extent of the Qualified Bids received.

TERMS OF OVERBIDS

An "Overbid" is any bid made at the Auction subsequent to the Debtor's announcement of the Baseline Bid. To submit an Overbid for purposes of this Auction, a Qualified Bidder must comply with the following conditions:

(a) Minimum Overbid Increment

Any Overbid after the Baseline Bid shall be made in increments of at least \$50,000. Additional consideration in excess of the amount set forth in the Baseline Bid may include only cash and/or other consideration acceptable to the Debtor, on consultation with the Lenders and the Committee.

(b) Remaining Terms is the Same as for Qualified Bids

Except as modified herein, an Overbid must comply with the conditions for a Qualified Bid set forth above, provided, however, that the Bid Deadline and the Initial Minimum Overbid Increment shall not apply. Any Overbid made from time to time by a Qualified Bidder must remain open and binding on the Qualified Bidder until and unless (i) the Debtor accepts a higher

Qualified Bid as an Overbid and (ii) such Overbid is not selected as the Back-up Bid (as defined below).

To the extent not previously provided (which shall be determined by the Debtor, after consultation with the Secured Lenders and the Committee), a Qualified Bidder submitting an Overbid must submit at the Debtor's request, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor) demonstrating such Qualified Bidder's ability to close the transaction proposed by such Overbid.

(c) Announcing Overbids

The Debtor shall announce at the Auction the material terms of each Overbid, the basis for calculating the total consideration offered in each such Overbid, and the resulting benefit to the Debtor's estate based on, *inter alia*, the Bid Assessment Criteria. The Debtor shall thereafter provide the Buyer and each Qualified Bidder an opportunity to make subsequent Overbids.

(d) Consideration of Overbids

The Debtor reserves the right, after consultation with the Secured Lenders and the Committee, and, to make one or more adjournments in the Auction to, among other things: facilitate discussions with individual Qualified Bidders; allow individual Qualified Bidders to consider how they wish to proceed; and give Qualified Bidders the opportunity to provide the Debtor with such additional evidence as the Debtor, after consultation with the Secured Lenders and the Committee, may require, that the Qualified Bidder (other than the Buyer) has sufficient

internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount.

ADDITIONAL PROCEDURES AND MODIFICATIONS

The Debtor, after consultation with the Secured Lenders and the Committee, may adopt additional rules for the Auction at or prior to the Auction that, in its reasonable discretion, will better promote the goals of the Auction and that are not inconsistent with any of the provisions of the Procedures Order. All such additional rules will be provided to each of the Qualified Bidders at the Auction. Further, at or before the Sale Hearing, the Debtor, after consultation with the Secured Lenders and the Committee, may impose such other terms and conditions as the Debtor may determine to be in the best interests of the Debtor's estate, its creditors and other parties in interest; provided, however, that any such terms or conditions may not be materially inconsistent with the terms of these Bidding Procedures. The Bidding Procedures set forth herein may not be modified except with the express written consent of the Debtor and the Buyer or upon Court Order.

All Bids shall be made and received in one room, on an open basis, and all other Qualified Bidders shall be entitled to be present for all bidding with the understanding that the true identity of each Qualified Bidder (*i.e.*, the principals submitting the Bid ("Principals")) shall be fully disclosed to all other Qualified Bidders and that all material terms of each Qualified Bid will be fully disclosed to all other Qualified Bidders throughout the entire Auction.

The Debtor, after consultation with the Secured Lenders and the Committee, may (a) determine, which Qualified Bid, if any, is the highest and best offer and (b) reject at any time

before entry of an order of the Bankruptcy Court approving a Qualified Bid, any Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bid Procedures, or the terms and conditions of sale, or (iii) contrary to the best interest of the Debtor, its estate and creditors.

CONSENT TO JURISDICTION AS CONDITION TO BIDDING

All Qualified Bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Auction, and the construction and enforcement of each Qualified Bidder's Contemplated Transaction Documents, as applicable.

Closing the Auction

Upon conclusion of the bidding, the Auction shall be closed, and the Debtor, after consultation with the Secured Lenders and the Committee, shall immediately identify the highest and best offer for the Assets (which may be an aggregate of bids for less than all of the Assets) (the "Successful Bid") and the entity submitting such Successful Bid (the "Successful Bidder"), which highest and best offer will provide the greatest amount of net value to the Debtor, and the next highest or otherwise best offer after the Successful Bid (the "Back-up Bid") and the entity submitting the Back-up Bid (the "Back-up Bidder"), and advise the Qualified Bidders of such determination. Upon five (5) business days' prior notice by the Debtor, the Back-up Bidder selected by the Debtor must immediately proceed with the closing of the transaction contemplated by the Back-up Bid in the event that the transaction with the Successful Bidder is not consummated for any reason. If the Buyer's final bid is deemed to be highest and

best at the conclusion of the Auction, the Buyer will be the Successful Bidder, and such bid, the Successful Bid.

ACCEPTANCE OF SUCCESSFUL BID

The Debtor shall sell the Assets to the Successful Bidder upon the approval of the Successful Bid by the Bankruptcy Court after the Sale Hearing. The Debtor's presentation of a particular Qualified Bid to the Bankruptcy Court for approval does not constitute the Debtor's acceptance of such Qualified Bid. The Debtor will be deemed to have accepted a Qualified Bid only when the Qualified Bid has been approved by the Bankruptcy Court at the Sale Hearing. All interested parties reserve their right to object to the Debtor's selection of the Successful Bidder (including the assignment of any of such objector's Designated Executory Contract proposed to be assumed by the Debtor and assigned to the Successful Bidder, and the Debtor reserves the right to contest any such objection including on the ground that the objector lacks standing, provided, however, that any objection to such assignment on the basis of amounts necessary, pursuant to Section 365 of the Bankruptcy Code, to cure all defaults under such objector's Designated Executory Contract proposed to be assumed by the Debtor and assigned to the Successful Bidder must be made and/or reserved in accordance with the procedures set forth in the order approving these Bidding Procedures).

"AS IS, WHERE IS"

The sale of the Assets shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Debtor, its agents or its estate except to the extent set forth in the Agreement or the purchase agreement of another Successful Bidder. The

Buyer and each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or, (i) as to the Buyer, the terms of the sale of the Assets shall be set forth in the Agreement, or (ii) as to another Successful Bidder, the terms of the sale of the Assets shall be set forth in the applicable purchase agreement.

FREE OF ANY AND ALL INTERESTS

Except as otherwise provided in the Agreement or another Successful Bidder's purchase agreement and subject to the approval of the Bankruptcy Court, all of Debtor's right, title and interest in and to the Assets subject thereto shall be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon and there against (collectively, the "Interests") in accordance with Bankruptcy Code § 363(f), with such Interests to attach to the net proceeds of the sale of the Assets; provided, however, (i) the Transaction or any Alternative Transaction will not be free and clear of claims and defenses, if any, related to consumer credit transactions subject to the Truth in Lending Act or any consumer credit contract as defined in 16 C.F.R. 433.1, and (ii) any purchaser remains subject to all claims and defenses, if any, related to such consumer credit transaction or such consumer credit contract, to the fullest

extent of the law, including applicable nonbankruptcy law, as if the purchase had not been made pursuant to Bankruptcy Code section 363.

SALE HEARING

The Sale Hearing shall be conducted by the Bankruptcy Court on May 6, 2009, one (1) business day following the Auction Date, or on such other date as may be established by the Bankruptcy Court.

If the Successful Bidder fails to consummate an approved sale by the date that is ten (10) days after the Sale Order has become final and non-appealable (the "Termination Date"), the Debtor shall be authorized, but not required, to deem the Back-up Bid, as disclosed at the Sale Hearing, the Successful Bid, and the Debtor shall be authorized, but not required, to consummate the sale with the Qualified Bidder submitting such Bid without further order of the Bankruptcy Court.

RETURN OF GOOD FAITH DEPOSIT

Any Good Faith Deposit of the Successful Bidder shall be applied to the purchase price of such transaction at Closing. Good Faith Deposits of all other Qualified Bidders shall be held in an interest-bearing escrow account until five (5) days after Closing of the transactions contemplated by the Successful Bid, and thereafter returned to the respective bidders with all accumulated interest thereon. If a Successful Bidder (including any Back-up Bidder that has become the Successful Bidder) fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Debtor shall be entitled to retain the

Successful Bidder's Good Faith Deposit as part of its damages resulting from such Successful Bidder's breach or failure to perform.