

Bidding Procedures

Set forth below are the bidding procedures (the "Bidding Procedures") to be employed with respect to the Agreement of Purchase and Sale, dated as of October 20, 2009, as amended by the First Amendment to Agreement of Purchase and Sale, dated November 19, 2009 (collectively, the "Agreement"), by and among TOUSA Homes, Inc. and TOUSA Homes Florida, L.P., each a debtor-in-possession (collectively, "Seller"), and Starwood Land Ventures, L.L.C. ("Buyer"), concerning, among other things, the sale, conveyance, assignment and transfer of the Property (the "Sale"); *provided*, that Buyer reserves the right to further comment on the form of the order of the Bankruptcy Court approving the Bidding Procedures. The Sale is subject to competitive bidding only as set forth herein (the "Bidding Process") and approval by the Bankruptcy Court at a hearing under Sections 105, 363 and 365 of the Bankruptcy Code (the "Sale Hearing"). The following Bidding Procedures and related bid protections are designed to reimburse Buyer for its efforts and agreements to date and to facilitate a full and fair process designed to maximize the value of the Property for the benefit of Seller's estate and creditors.

"Stalking Horse"

Buyer has been designated by Seller to be the "stalking horse" bidder for the proposed transactions contemplated by the Agreement.

Participation Requirements

In order to participate in the Bidding Process, each person or entity (each, a "Potential Bidder") other than Buyer, which is and shall be deemed to be a Qualified Bidder for all purposes, must deliver (unless previously delivered) to Seller:

- (i) An executed confidentiality agreement provided by Seller, which shall be no more favorable in the aggregate to the Potential Bidder than that delivered by Buyer;
- (ii) Current audited financial statements of (A) the Potential Bidder, or (B) if the Potential Bidder is an entity formed for the purpose of acquiring the Property of Seller, current audited financial statements of the equity holder(s) of the Potential Bidder who shall either guarantee the obligations of the Potential Bidder or provide such other form of financial disclosure and credit-quality support information or enhancement reasonably acceptable to Seller and its advisors; and
- (iii) A preliminary (non-binding) proposal regarding (a) the purchase price range, (b) any assets expected to be excluded, (c) the structure and financing of the transaction (including the amount of equity to be committed and sources of financing), (d) any anticipated regulatory approvals required to close the transaction, the anticipated time frame and any anticipated impediments for obtaining such approvals, (e) any conditions to closing that it may

wish to impose in addition to those set forth in the Agreement, and (f) the nature and extent of additional due diligence it may wish to conduct.

As promptly as practicable after a Potential Bidder delivers all of the materials required by subparagraphs (i), (ii), and (iii) above, Seller, in consultation with the statutory committee of unsecured creditors appointed in the Chapter 11 Cases (the "Committee"), shall determine whether the Potential Bidder is a Qualified Bidder, and shall notify the Potential Bidder and Buyer of such determination. After Seller notifies the Potential Bidder that it is a Qualified Bidder, Seller shall provide to the Qualified Bidder (i) access to the same confidential evaluation materials provided by Seller to Buyer containing financial information and other data relative to the Property and/or such other information as the Qualified Bidder may reasonably request (provided, that all such additional information shall also be provided to Buyer); (ii) the results of Buyer's investigations, studies, tests, memoranda, analyses and other work product to the extent that Buyer in Buyer's sole discretion has elected to give Seller such results; and (iii) a copy of the Agreement, marked to delete references to the Break-Up Fee and Expense Reimbursement (as each is defined below), which is payable only to Buyer.

Due Diligence

Only Qualified Bidders may conduct due diligence and only until the Bid Deadline (as defined below). Due Diligence access may include management presentations as may be scheduled by Seller, access to physical and online data rooms, on-site inspections and such other matters which a Qualified Bidder may reasonably request and as to which Seller, in its reasonable exercise of discretion, may agree. Seller will designate employee(s) or other representative(s) to coordinate all reasonable requests for additional information and due diligence access from a Qualified Bidder. If any Qualified Bidder receives any information related to the Property from Seller not theretofore given to Buyer, Seller shall within twenty-four (24) hours provide Buyer with such information. Seller may, in its discretion, coordinate due diligence efforts such that multiple Qualified Bidders have simultaneous access to due diligence materials and/or simultaneous attendance at management presentations or on-site inspections. Neither Seller nor any of its affiliates (or any of their respective representatives) are obligated to furnish any information relating to the Property to any person other than to Qualified Bidders who make an acceptable preliminary proposal. Qualified Bidders are advised to exercise their own discretion before relying on any information regarding the Property provided by anyone other than Seller or its representatives. It is expressly understood and agreed to between the parties that the results of Buyer's investigations, studies, tests, memorandums, analysis and other work product are strictly confidential; provided, however, that if Buyer, in Buyer's sole discretion, elects to give such results to Seller, Seller shall have the right to disclose any information regarding the results of Buyer's investigations, studies, tests, memorandums, analysis and any other work product to any Potential Bidder.

Bid Deadline

All Bids (as defined below) must be submitted to Seller c/o Lazard Frères, 190 S. LaSalle Street, 31st Floor, Chicago, Illinois 60603 (attn: Sachin Lulla, sachin.lulla@lazard.com), so as to be received not later than 5:00 p.m. (Eastern Time) on January 15, 2010 (the "Bid Deadline").

Copies of all Bids shall simultaneously be provided by facsimile transmission, electronic mail, personal delivery or reliable overnight courier service in accordance with Exhibit F to counsel to Buyer and counsel to the Committee. For purposes of this Agreement, “Bid” shall mean one or more letters from a Qualified Bidder stating that (i) such Qualified Bidder offers to purchase all or substantially all of the Property upon the terms and conditions set forth in a copy of the Agreement, together with all Exhibits and Schedules thereto (the “Definitive Sale Documentation”), marked to show those amendments and modifications to the Definitive Sale Documentation, including, but not limited to, price and the time of closing, that such Qualified Bidder proposes, (ii) such Qualified Bidder is prepared to enter into and consummate the transaction within not more than eleven (11) days after entry by the Bankruptcy Court of the Sale Order, and (iii) each such Qualified Bidder’s offer is irrevocable until the closing of a purchase of all or substantially all of the Property.

Qualified Bids

Only Qualified Bids will qualify for consideration at the Auction (as defined below). A Bid received from a Qualified Bidder will constitute a “Qualified Bid” only if such Bid includes the documents and meets the requirements set forth below. In particular, a “Qualified Bid” is a Bid that:

- (i) is received by the Bid Deadline (as may be extended, as described below);
- (ii) identifies the proponent of the Bid and an officer who is authorized to appear and act on behalf of the Qualified Bidder and provides evidence of authorization and approval from the Qualified Bidder’s board of directors or comparable governing body with respect to the submission, execution, delivery and closing of the Qualified Bid;
- (iii) provides for the purchase by the Qualified Bidder of, at a minimum, substantially all of the Property;
- (iv) a proposal which Seller, in consultation with the Committee, determines is not materially more burdensome or conditional than the terms of the Agreement and has a value greater than or equal to the sum of (a) the Purchase Price *plus* (b) the Break-Up Fee *plus* (c) the Expense Reimbursement *plus* (z) \$1,000,000;
- (v) includes a copy of a definitive purchase agreement in form and substance similar to the Agreement signed by an authorized representative of such Qualified Bidder in addition to a marked copy of such agreement to reflect the Qualified Bidders modifications to the Agreement;
- (vi) is generally on the same or more favorable terms in the aggregate to Seller as set forth in the Agreement;
- (vii) is not subject to termination except on the same terms as the Agreement;

(viii) includes written evidence of a commitment for financing (by a credit worthy bank or financial institution that shall provide such financing without alteration of conditions or delays that is not contingent as of the Auction or other evidence of ability, as determined in the reasonable business judgment of the Debtors, after consultation with the Committee, to consummate the transaction;

(ix) is accompanied by a deposit (by means of a certified bank check from a U.S. bank or by wire transfer) equal to ten percent (10%) of the amount of such Bid (the "Deposit"); and

(x) is not conditioned on the outcome of any unperformed due diligence by the bidder, the receipt of equity or debt financing, or the approval of any board of directors, shareholder, or other corporate approval;

(xi) is not conditioned upon approval by the Bankruptcy Court of any bid protections, such as a termination fee, expense reimbursement or similar type of payment; and

(xii) is irrevocable until the closing of the Sale if such Qualified Bidder is selected as Successful Bidder or Back-up Bidder.

Whether the Bid of a Qualified Bidder meets the foregoing requirements to become a Qualified Bid shall be determined by the Debtors, in their reasonable business judgment, after consultation with the Committee. The Debtors shall notify Buyer and the Committee promptly if they determine any Potential Bidder is a Qualified Bidder.

The Debtors, in their reasonable business judgment, after consultation with the Committee, may reject any proposal that is on terms that are more burdensome or conditional than the terms of the Agreement, entitles the Potential Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment that is not in conformity with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or the Local Rules of the Bankruptcy Court, or is contrary to the best interests of the Debtors or their estates.

If Seller does not receive any Qualified Bids, Seller shall report the same to the Bankruptcy Court and shall proceed with a sale of the Property to Buyer pursuant to the terms of the Agreement. The Agreement executed by Buyer, as it may be amended, modified, or supplemented, shall constitute a Qualified Bid for all purposes.

Auction, Bidding Increments, and Bids Remaining Open

If Seller receives one or more Qualified Bids, Seller will conduct an auction (the "Auction") at the offices of Berger Singerman, P.A., 200 South Biscayne Blvd., Ste. 1000, Miami, Florida 33131, beginning at 10:00 a.m. (Eastern Time) on January 22, 2010, or such later time or other place as Seller shall notify all Qualified Bidders who have submitted Qualified Bids. The Debtors, after consultation with the Committee, shall evaluate all Qualified Bids received and shall determine which Qualified Bid reflects the highest or best offer for the Purchased Assets. At least one Business Day prior to the Auction, Seller shall give Buyer, the Committee and all other Qualified Bidders a copy of the highest and best Qualified Bid received

and copies of all other Qualified Bids. Only Buyer, Sellers, representatives of the Committee and any Qualified Bidders (including such parties' respective advisors) who have timely submitted Qualified Bids shall be entitled to attend the Auction, and only Buyer and such Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction.

At the Auction, Qualified Bidders will be permitted to increase their Bids, and all Bids shall be made and received in one room on an open basis. All participating Qualified Bidders shall be entitled to be present for all bidding with the understanding that the true identity of each participating Qualified Bidder shall be fully disclosed to all other Qualified Bidders and that all material terms of each Bid will be fully disclosed to all other participating Qualified Bidders throughout the entire Auction. All proceedings at the Auction shall be conducted before and transcribed by a court stenographer.

Bidding at the Auction shall be in increments of \$500,000 and shall continue until such time as the highest and best Qualified Bid is determined by Seller, in consultation with the Committee. For the purpose of evaluating the value of the consideration provided by each subsequent Qualified Bid (including any subsequent Bid by Buyer) at the Auction, the value shall be the net consideration payable to Sellers (after taking into account the Assumed Liabilities and the value of the assets to be transferred) after giving effect to any Break-Up Fee or Expense Reimbursement that may be payable to Buyer under the Agreement. At the conclusion of the bidding, Seller, after consultation with the Committee, shall announce its determination as to the Qualified Bidder submitting the successful Bid (the "Successful Bidder" and "Successful Bid"), which shall be submitted to the Bankruptcy Court for approval at the Sale Hearing, and the second highest and best Qualified Bid (the "Back-up Bid"). Seller will be deemed to have accepted any Qualified Bid only when such Qualified Bid is determined to be the Successful Bid and has been approved by the Bankruptcy Court. Buyer shall be deemed a party-in-interest with standing to appear and be heard in connection with any motion, hearing, or other proceeding relating to the Agreement, any subsequent Bids, and the Auction.

The Debtors, after consultation with (i) their counsel and financial advisors, and (ii) the Committee may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make subsequent Bids) for conducting the Auction provided that such rules are (i) not inconsistent with these Bidding Procedures, , the Bankruptcy Code, or any order of the Bankruptcy Court or of any other applicable court entered in connection herewith and (ii) disclosed to each Qualified Bidder at the Auction.

Break-Up Fee and Expense Reimbursement

If Seller (i) accepts a Qualified Bid, other than a bid of Buyer, as the highest or best offer or (ii) enters into a Competing Transaction with a person other than Buyer within 6 months after the conclusion of the Auction (or, if no Auction is actually held, the date for which the Auction had been scheduled to commence), Seller shall pay Buyer at the closing of such Competing Transaction as reasonable compensation for Buyer's efforts in connection with the negotiation and execution of the Agreement and the transactions contemplated thereby an amount equal to (a) 3% of the Purchase Price (the "Break-up Fee"), plus (b) the lesser of (x) \$250,000 (unless

previously paid under Section 17(m) of the Agreement) or (y) reimbursement of Buyer's third party actual out-of-pocket fees and expenses incurred to undertake its due diligence review of the Property during the Feasibility Period (the "Expense Reimbursement"). For the avoidance of doubt, no Break-up Fee or Expense Reimbursement will be due and owing unless and until the Feasibility Period has passed and the Bidding Procedures have been approved and Buyer is not the winning bidder in the Auction.

If within six (6) months after the conclusion of the Auction (or, if no Auction is actually held, the date on which the Auction had been scheduled to commence), Seller enters into any letter of intent, agreement in principle, agreement or understanding regarding the sale of any part of the Property but not all or substantially all of the Property, then Seller shall pay to Buyer at the closing of such sale a fee equal to three percent (3%) of the purchase price of that portion of the Property sold plus the Expense Reimbursement.

The Break-Up Fee and Expense Reimbursement obligations of Seller shall payable solely from the proceeds from a Competing Transaction; *provided, however*, that the foregoing shall not preclude payment on the Expense Reimbursement pursuant to and in accordance with the provisions of Section 17(m) of the Agreement; *provided further, however*, that in the event the closing of a Competing Transaction does not yield cash proceeds sufficient to pay the Break-Up Fee and Expense Reimbursement to Buyer, then Seller's obligations with respect thereto shall be entitled to treatment as administrative expenses of Seller and Seller's estate under Sections 503(b) and 507(a) of the Bankruptcy Code.

Before payment of the Expense Reimbursement, Buyer will provide invoices to the Debtors and the Committee reasonably detailing the expenses for which it seeks reimbursement

The Sale Hearing

The Sale Hearing is presently scheduled to take place on January 29, 2010 at 10:00 a.m. (Eastern time) before the Honorable John K. Olson, United States Bankruptcy Judge for the Southern District of Florida. At the Sale Hearing, Seller will seek entry of the Sale Order, among other things, authorizing and approving the Sale (i) to Buyer, if no other Qualified Bid is received and accepted as the Successful Bid, pursuant to the terms and conditions set forth in the Agreement or (ii) to the Successful Bidder, if a Qualified Bid is received and accepted by Seller as the Successful Bid, as determined by Seller in accordance with the Bidding Procedures, pursuant to the terms and conditions set forth in the Agreement or marked agreement submitted by the Successful Bidder

If, following the entry of the Sale Order by the Bankruptcy Court, the Successful Bidder fails to consummate a transaction with Seller in respect of such Successful Bid because of a breach or failure to perform on the part of such Qualified Bidder, then the Back-up Bid shall be deemed to be the Successful Bid, and Seller shall be authorized, but not required, to consummate a transaction in respect of the Back-up Bid without further order of the Bankruptcy Court.

The Sale Hearing may be adjourned or rescheduled without notice, including by an announcement of the adjourned date at the Sale Hearing.

Failure to Consummate Purchase

If the Successful Bidder (other than Buyer) fails to consummate the Sale, and such failure is the result of a breach by the Successful Bidder, the Successful Bidder's Deposit shall be forfeited to Seller and, except to the extent provided in the Agreement or marked agreement, Seller specifically reserves the right to seek all available damages from such person.

Return of Good Faith Deposit

The Deposits of all Qualified Bidders (other than Buyer) shall be retained by Seller and held in escrow in an interest bearing account and all Qualified Bids will remain open, notwithstanding Bankruptcy Court approval of a sale pursuant to the terms of a Successful Bid by a Qualified Bidder, until 48 hours after the closing of the sale of the Property (the "Return Date"). On the Return Date, Seller shall return the Deposits of all Qualified Bidders, except the Successful Bidder, with the accrued interest.

Modifications

The Debtors, in consultation with the Committee, may (a) determine, in their business judgment, which Qualified Bid, if any, is the highest or otherwise best offer, (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, these Bidding Procedures or the terms and conditions of the Agreement, or (iii) contrary to the best interests of Seller, its estate and creditors and other parties-in-interest, and (c) with the prior consent of Buyer, extend the Bid Deadline; provided, however, that if Buyer submits the only Qualified Bid, the provisions of clauses (a) and (b) above shall be inoperative.