

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

MOSAIC SUSTAINABLE FINANCE
CORPORATION, *et. al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 25-90156 (CML)
)

) (Joint Administration Requested)
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)

DEBTORS' MOTION FOR ENTRY OF ORDERS APPROVING (I)(A) BIDDING PROCEDURES FOR THE SALE OF SUBSTANTIALLY ALL OR A PORTION OF THE DEBTORS' ASSETS, (B) CERTAIN BID PROTECTIONS IN CONNECTION WITH A STALKING HORSE AGREEMENT, IF ANY, (C) PROCEDURES FOR THE DEBTORS' ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, (D), THE FORM AND MANNER OF NOTICE OF SALE, AUCTION, ASSUMPTION AND ASSIGNMENT PROCEDURES AND SALE HEARING, AND (E) DATES FOR AN AUCTION AND SALE HEARING, AND (II)(A) SALE OF SUBSTANTIALLY ALL OR ANY PORTION OF DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, AND (B) ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (III) GRANTING RELATED RELIEF

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Mosaic Sustainable Finance Corporation (“Mosaic”) and its debtor affiliates as debtors and debtors in possession (collectively, the “Debtors” or the “Company”) in the above-captioned

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Mosaic Sustainable Finance Corporation (6802); Solar Mosaic LLC (3655); Modern Home LLC (4998); Mosaic Funding Holdings LLC (0866); and SMCTX LLC (6303). The service address for each of the above Debtors is 601 12th Street, Suite 325, Oakland, California 94607.

chapter 11 cases, hereby submit this motion (this “Motion”). In support of this Motion, the Debtors submit the *Declaration of Mark Renzi, Chief Restructuring Officer of the Debtors, in Support of Debtors’ Chapter 11 Petitions and First Day Motions* (the “Renzi Declaration”) and the *Declaration of Richard W. Morgner in Support of Debtors’ Motion for Entry of Orders Approving (I)(A) Bidding Procedures for the Sale of Substantially All or a Portion of the Debtors’ Assets, (B) Certain Bid Protections in Connection with a Stalking Horse Agreement, If Any, (C) Procedures for the Debtors’ Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D), the Form and Manner of Notice of Sale, Auction, Assumption and Assignment Procedures and Sale Hearing, and (E) Dates for an Auction and Sale Hearing, (II)(A) Sale of Substantially All or Any Portion of Debtors’ Assets Free and Clear of Liens, Claims, Interests and Encumbrances, and (B) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* (the “Morgner Declaration”), filed contemporaneously herewith and incorporated by reference. In further support of this Motion, the Debtors state as follows:

PRELIMINARY STATEMENT

1. The Debtors commenced these chapter 11 cases in order to consummate a comprehensive, multifaceted restructuring involving (i) a recapitalization of the Debtors’ Servicing Business (defined below) pursuant to a chapter 11 plan as contemplated by the terms set forth in the plan term sheet, attached as Exhibit A to the Renzi Declaration (the “Plan Term Sheet”), and (ii) one or more value-maximizing transactions for the Debtors’ remaining assets, including certain of its intellectual property assets and its Origination Business (defined below). In furtherance of these efforts, the Debtors have determined that continuing the marketing process commenced prepetition and soliciting bids for all of their Assets, including the Servicing Business,

pursuant to Court-approved bid procedures at the outset of the case is essential to ensuring that all Assets of the Debtors' estates are maximized for the benefit of stakeholders. Simultaneously with the postpetition marketing process, the Debtors will pursue confirmation of the proposed chapter 11 plan embodied in the Plan Term Sheet (the "Plan/Sale Process"). In the event that the proposed Bid Procedures (defined below) yield higher and better offers for Assets included in the Debtors' Servicing Business, the Debtors will be able to quickly pivot and pursue that alternative transaction while ensuring the Debtors do not languish in chapter 11 to the detriment of its stakeholders.

2. In furtherance of one or more value-maximizing transactions, the Bid Procedures allow for the designation of a Stalking Horse Bidder (as defined below) in order to allow the Debtors with the ability to set a "floor" for the Assets and encourage bidders to come forth quickly with competing bids. Consistent with these objectives, the Bid Procedures provide that the Debtors may, in their business judgment, provide such Stalking Horse Bidder with certain bid protections that are in line with bid protections typically provided in similar court-approved marketing processes.

3. The Debtors therefore respectfully request that the Court approve the Debtors' proposed Bid Procedures, authorize the designation of a Stalking Horse Bidder and offer Bid Protections (as defined below) in connection therewith, schedule the Sale Hearing (as defined below), and approve the form and manner of notices and procedures in connection with the sale process, among other requested relief, as set forth herein.

RELIEF REQUESTED

By this Motion, the Debtors seek entry of:

- (a) an order, substantially in the form attached hereto as **Exhibit A** (the "Bidding Procedures Order");

- (i) authorizing and approving the proposed bidding procedures (the “Bidding Procedures”) attached to the Bidding Procedures Order as Exhibit 1, by which the Debtors will solicit and select the highest or otherwise best offer for the sale of substantially all or any portion of the Debtors’ assets (the “Assets”) through one or more sales (each a “Sale Transaction”), free and clear of all liens, claims, interests, and encumbrances, or through a plan of reorganization (the transaction contemplated by such plan of reorganization, a “Restructuring Transaction”, and, together with a Sale Transaction, each, a “Transaction”);
- (ii) authorizing the Debtors to designate a stalking horse bidder (the “Stalking Horse Bidder”) for all, substantially all, or any combination of the Assets, if any, offer such Stalking Horse Bidder certain bid protections (the “Bid Protections”), and execute a stalking horse agreement (the “Stalking Horse Agreement”) with such Stalking Horse Bidder;
- (iii) scheduling (A) a date for an auction in connection with a Transaction if the Debtors receive more than one timely and acceptable Qualified Bid (as defined below) (the “Auction”), (B) a hearing date for the approval of one or more Sale Transactions, if necessary (the “Sale Hearing”), and (C) the objection deadline, if necessary, for the Sale Hearing (the “Sale Objection Deadline”);
- (iv) approving the form and manner of a notice of the Auction and Transaction, attached to the Bidding Procedures Order as Exhibit 2 (the “Sale Notice”), and (B) the post-auction notice, attached to the Bidding Procedures Order as Exhibit 4 (the “Post-Auction Notice”);
- (v) approving procedures (the “Assumption and Assignment Procedures”) for the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale Transaction (all such contracts and leases capable of being assumed or assumed and assigned under section 365 of the Bankruptcy Code, the “Designated Contracts”), and approving the form and manner of notice thereof, attached to the Bidding Procedures Order as Exhibit 3 (the “Assumption and Assignment Notice”); and
- (vi) granting related relief; and
- (b) an order (the “Sale Order”), the form of which will be filed by the Debtors prior to the Sale Hearing:
 - (i) authorizing the Transaction to the Winning Bidder(s) free and clear of all liens, claims, interests, and encumbrances;
 - (ii) authorizing the assumption and assignment of the Designated Contracts; and
 - (iii) granting related relief.

JURISDICTION AND VENUE

4. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding under 28 U.S.C. § 157(b). The Debtors confirm their consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

5. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

6. The bases for the relief requested herein are sections 105(a), 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 6003, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 9013-1 of the Bankruptcy Local Rules of the Court (the “Local Rules”).

BACKGROUND

I. General Background

7. On June 6, 2025 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code commencing the above-captioned chapter 11 cases (the “Chapter 11 Cases”). The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Bankruptcy Local Rule 1015-1. Additional information regarding the Debtors’ business, capital structure, and the circumstances preceding the Petition Date may be found in the Renzi Declaration.

8. The Company, which is based in Oakland, California, is one of the oldest financing companies in the residential solar space. The Company was founded in 2010 as a clean energy crowdfunding initiative offering loans for the development of commercial solar projects. Initial projects included twelve private investor funded rooftop solar plants in California, New Jersey,

and Arizona. By 2012, the Company was financing solar plants at zero percent interest to create energy for local community organizations, which provided benefits to those communities in the form of reduced utility costs and job opportunities for local workers.

9. The Company's business can be divided into two primary segments: (a) origination of new loans (the "Origination Business") and (b) loan servicing (the "Servicing Business").

(i) The Origination Business

10. Through its Origination Business, the Company originates loans for residential solar panel systems, which are made available to homeowners through the Company's network of Installers. In marketing and documenting loans originated through the Company, Installers use the Company's point of sale fintech platform to promote loan financing to homeowners, supported by an extensive ecosystem that includes solar equipment manufacturers, contractors, and software as a service companies.

11. Home improvement projects financed by loans originated by the Company typically progress through a series of stages and, on average, take between 90 to 180 days to proceed from loan approval to permission to operate, when the solar installation has, among other things, been inspected and approved by applicable utilities or local officials. Partial disbursements of loan funds typically occur at specified intervals throughout this process tied to project milestones set forth in the loan agreement. Frequently, an initial partial disbursement is made at the outset to allow the Installer to acquire the solar panels and related materials and to perform installation work, and the final disbursement is typically made upon completion of installation.

(ii) The Servicing Business

12. The Company's Servicing Business is built around the servicing of the loans sold to its partners. As part of its contractual agreements with the Warehouses, Whole Loan Purchasers,

ABS Vehicles, WebBank, and Connexus, the Company acts as servicer for the loans originated by the Company (or in the cases of WebBank and Connexus, marketed by the Company and originated and held by WebBank or Connexus, as applicable). The total amount of loans currently being actively serviced by the Company's Servicing Business is over \$8 billion.

II. Prepetition Marketing Process

13. The Debtors retained by Jefferies LLC ("Jefferies") in 2024 to, among other things, facilitate outreach on behalf of the Debtors in connection with an evaluation of the Debtors' immediate financing needs and potential strategic transactions, including financing and asset sales. Following its engagement by the Debtors, Jefferies launched a marketing process on behalf of the Debtors to explore capital raise opportunities in an effort to refinance the Prepetition Credit Facility². Despite Jefferies' marketing process, including engagement with over twenty (20) parties, the Debtors did not ultimately receive any acceptable offers, and determined to terminate the marketing process and instead amend the existing Prepetition Credit Facility.

14. Thereafter, on May 29, 2025, the Debtors re-engaged Jefferies to provide investment banking services in connection with the effort to seek incremental financing, a potential sale of some or all assets of the Debtors and a potential restructuring of the Debtors. Since that time, Jefferies has also been integrally involved in the negotiations with existing Prepetition Lenders, other creditors and stakeholders and third parties. In addition, Jefferies, together with the Debtors' other advisors and management, have been assisting the Debtors in (i) the negotiation of

² "Prepetition Credit Facility" means that certain Credit Agreement (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time) by and among Solar Mosaic LLC, as borrower, the financial institutions from time to time party thereto as lenders (the "Prepetition Lenders"), and Forbright Bank (f/k/a Congressional Bank), as administrative agent (in such capacity, the "Prepetition Agent").

a debtor in possession credit facility and assessment of alternative financing options, and (ii) running a sale and marketing process for substantially all of the Debtors' assets.³

15. Since Jefferies' re-engagement, Jefferies has contacted a total of 21 parties including six (6) potential strategic purchasers and 15 potential financial purchasers with respect to a potential financing transaction or sale of some or all of Debtors' assets. Of these parties, six (6) parties have executed a copy of a non-disclosure agreement ("NDA") and were given access to a secure data room containing diligence materials. No party has submitted any indication of interest as of the Petition Date. While none of these parties was willing to purchase the Debtors' assets outside of chapter 11 or otherwise serve as a stalking horse bidder in a chapter 11 sales process as of the Petition Date, the Debtors believe that a number of these interested parties may potentially submit bids for all or some combination of the Debtors' assets as the Plan/Sale Process continues during the course of these Chapter 11 Cases.

THE BIDDING PROCEDURES

A. Bidding Procedures

16. The Debtors believe that the proposed Bidding Procedures, attached to the Bidding Procedures Order as Exhibit 1, are fair and appropriate under the circumstances and consistent with the Debtors' goals in the Plan/Sale Process. The Bidding Procedures set forth, among other things, procedures for interested parties to access due diligence, the manner in which bidders and bids become "qualified" (such bidders being referred to herein as "Qualified Bidders" and such bids as "Qualified Bids"), the receipt and negotiation of bids received, the conduct of any auction,

³ In addition, the Debtors also retained Rockefeller Capital Management ("Rockefeller") to conduct a financing process prior to Jefferies' re-engagement.

the selection and approval of any ultimately winning bidder, and the deadlines with respect to the foregoing.

17. To ensure that the Debtors' sale and marketing process maximizes value for the benefit of the Debtors' estates, the Debtors seek approval of the following proposed schedule, certain of which may be subject to extension and other modifications in accordance with the Bidding Procedures.

- **Key Proposed Auction and Sale-Related Dates:**⁴

Date and Time	Event or Deadline
July 14, 2025 at 5:00 p.m. (prevailing Central Time)	Stalking Horse Bid Deadline. The deadline by which all Qualified Bids by bidders seeking to be the Stalking Horse Bidder must be actually received pursuant to the Bidding Procedures.
July 15, 2025 at 5:00 p.m. (prevailing Central Time)	Stalking Horse Designation Deadline. The deadline by which the Debtors may enter into a Stalking Horse Agreement with respect to the sale of some or all of the Assets.
Within two (2) business days following designation of a Stalking Horse Bidder (or as soon as practicable thereafter)	Notice of Stalking Horse. The date by which the Debtors will file with the Court the notice of the Debtors' entry into a Stalking Horse Agreement, the identity of the Stalking Horse Bidder, and the Bid Protections provided to the Stalking Horse Bidder.
July 21, 2025 at 5:00 p.m. (prevailing Central Time)	Bid Deadline. The deadline by which bids for the sale or sales of the Assets must be submitted.
July 22, 2025 at 5:00 p.m. (prevailing Central Time)	Qualified Bidders. The deadline for Debtors to notify bidders of their status as Qualified Bidders prior to the Auction
August 1, 2025 at 5:00 p.m. (prevailing Central Time)	Sale Objection Deadline. The deadline to (i) object to the Sale Transactions, and/or (ii) except as otherwise set forth in the Assumption and Assignment Procedures (defined below), object to the potential assumption or assumption and assignment of the Debtors' Designated Contracts and cure amounts related thereto; <i>provided that</i> , notwithstanding the foregoing, Post-Auction Objections shall be filed no later than the Post-Auction Objection Deadline (as defined below).
August 5, 2025 at 9:00 a.m. (prevailing Central Time)	Auction. The date and time that the Auction, if any, for Assets, will be held. The Auction will be held either at the offices of the proposed counsel for the Debtors, Paul Hastings LLP, 71 S. Wacker

⁴ Subject to Court availability.

	Drive, Chicago, IL 60606, or virtually, pursuant to procedures to be timely filed on the Court's docket in advance of the commencement of the Auction, or at such later date and time or other location, as selected by the Debtors in accordance with the Bidding Procedures.
Within two (2) business days following the selection of Winning Bidder(s)	Notice of Winning Bidder(s). The date by which the Debtors will file with the Court the Post-Auction Notice identifying the Winning Bidder(s).
August 6, 2025 at 5:00 p.m. (prevailing Central Time)	Post-Auction Objection Deadline. Following service of the Post-Auction Notice, parties with requisite standing may object to (i) the manner in which the Auction was conducted or the designation or court-approval of the Winning Bid(s) or Back-up Bid(s) or (ii) contract-counterparty Adequate Assurance Objections (each such objection, a " <u>Post-Auction Objection</u> ").
No later than three (3) days prior to the Sale Hearing	Reply Deadline. The deadline by which the Debtors must file replies to any objections to the Sale Transactions, and/or the assumption or assumption and assignment of the Designated Contracts and cure amounts related thereto, other than with respect to objections filed after the Sale Objection Deadline.
No later than August 14, 2025	Sale Hearing. The date and time that the Sale Hearing shall take place before the Court.

18. In general, the Bidding Procedures establish the following, among other things:⁵

SUMMARY OF THE BIDDING PROCEDURES	
Provisions Governing Qualification of Bidders and Qualified Bids	A. Potential Bidder Requirements – To access the Data Room of the Debtors’ material documents, parties (other than the DIP Agent and the Prepetition Agent) must provide: 1. <u>Confidentiality Agreement</u>. An executed confidentiality agreement in form and substance reasonably satisfactory to the Debtors (unless such party is already a party to an existing confidentiality agreement with the Debtors that is acceptable to the Debtors for this due diligence process, in which case such agreement will govern). 2. <u>Financial Whereewithal</u>. Sufficient information, as reasonably determined by the Debtors, to allow the Debtors to determine that the interested party (i) has the financial whereewithal to consummate the applicable Sale Transaction(s) and (ii) intends to access the Data Room for a purpose consistent with the Bidding Procedures. 3. <u>Bona Fide Interest</u>. A statement that such party has a bona fide interest in executing the Transaction. 4. <u>Partner Statement</u>. A statement detailing whether such interested party is partnering with or otherwise working with any other interested party in connection with the potential submission of a joint Bid, the identity of any such party or parties, and a concise description of the nature of such partnership or joint bid to the extent reasonably practicable. Any party who satisfies items 1 through 4 above shall be a “<u>Potential Bidder</u>.” B. Qualified Bid Requirements – The Debtors, in their reasonable judgment, in consultation with the Consultation Parties, will determine whether such Bids satisfy the requirements for a Qualified Bid as set forth in the Bidding Procedures, and each bidder that submits a Qualified Bid will be a Qualified Bidder. The following items will be considered: 1. <u>Identity of Bidder</u>. Each Qualified Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Potential Bidder if such Potential Bidder is an entity formed for the purpose of consummating the proposed Transaction contemplated by such Bid), 2. <u>Joint Bids</u>. The Debtors, in consultation with the Consultation Parties, will be authorized to approve joint Bids in their reasonable discretion on a case-by-case basis. 3. <u>Assumed Liabilities</u>. A Qualified Bid must clearly identify the particular liabilities, if any, the Potential Bidder seeks to assume. 4. <u>Purchase Price</u>. Each Bid must: (i) clearly state which Assets the Bidder is agreeing to purchase and which liabilities the Bidder is agreeing to assume; and (ii) clearly set forth the purchase price to be paid in the event of a Sale Transaction or other consideration to be

⁵ In the case of any inconsistencies between this chart and the Bidding Procedures attached to the Bidding Procedures Order of Exhibit 1, the Bidding Procedures will control.

SUMMARY OF THE BIDDING PROCEDURES	
	furnished in the event of a Restructuring Transaction, including and identifying separately any cash and non-cash components, in sufficient detail satisfactory to the Debtors, in consultation with the Consultation Parties⁶ (the “Purchase Price”). Each Bid for a combination of Assets, other than for all or substantially all of the Assets, must: (i) provide a breakdown of the share of the Purchase Price allocable to each of the Assets included in the Bid; (ii) state whether the Bid is conditioned upon the Bid being the Winning Bid (as defined below) for any of the other Assets included in the Bid (and, if so, which Assets); and (iii) state whether the Qualified Bidder is willing to purchase any of the Assets included in the Bid individually, and if so, the price such Bidder would pay for each such Asset. 5. <u>No Financing or Diligence Outs.</u> Each Bid may not be conditioned on (i) obtaining financing, (ii) any internal approval, (iii) the outcome or review of due diligence (other than customary diligence relating to environmental and title matters), or (iv) regulatory contingencies, except as provided under “Regulatory and Third-Party Approvals.” 6. <u>Required Approvals.</u> Each Bid must include a description of all governmental, licensing, regulatory, or other approvals or consents that are required to consummate the proposed Transaction, together with evidence satisfactory to the Debtors, in consultation with the Consultation Parties, of the ability to obtain such consents or approvals in a timely manner, as well as a description of any material contingencies or other conditions that will be imposed upon, or that will otherwise apply to, obtaining any such consents or approvals. 7. <u>Deposit.</u> A Qualified Bid must be accompanied by a good faith deposit in the form of cash in an amount equal to five percent (5%) of the Purchase Price (a “Deposit”). 8. <u>Executed Agreement.</u> A Qualified Bid must be based on the PSA, or the Stalking Horse Agreement if one exists, and each Bid contemplating a Restructuring Transaction must be based on a plan term sheet. 9. <u>Financial Information.</u> a. A Qualified Bid must contain such financial and other information that allows the Debtors, in consultation with the Consultation Parties, to make a reasonable determination as to the Potential Bidder’s financial and other capabilities to consummate the applicable Sale Transaction(s), including, without limitation: • such financial and other information setting forth the Potential Bidder’s willingness to perform under any contracts that are assumed and assigned to such party, • current financial statements or similar financial information certified to be true and correct as of the date thereof,

⁶ The term “Consultation Parties” as used in the Bidding Procedures means the DIP Agent and Prepetition Agent solely to the extent such party is not submitting a Qualified Bid, and their professional advisors, and any Committee.

SUMMARY OF THE BIDDING PROCEDURES	
	- proof of financing commitments (if needed) to close the applicable Sale Transaction(s) (not subject to, in the Debtors' sole discretion, any unreasonable conditions), - contact information for verification of such information, including any financing sources, and - any other information reasonably requested by the Debtors necessary to demonstrate that the Potential Bidder has the ability to close the applicable Sale Transaction(s) in a timely manner. 10. <u>As-Is, Where-Is.</u> Each Bid must include a written acknowledgement and representation that the Bidder (i) has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, (ii) has relied solely upon its own independent review, investigation, or inspection of any documents or the Assets in making its Bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction. 11. <u>Adequate Assurance of Future Performance.</u> a. If applicable, a statement that the Potential Bidder has made or will make in a timely manner all necessary filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and pay any related fees. b. If applicable, explanation or evidence of Potential Bidder's plan and ability to obtain all governmental and regulatory approvals to operate or own the applicable Assets, including, an explanation from the bidder's legal counsel to the Debtors' legal counsel of such Potential Bidder's regulatory analysis, strategy, and timeline for securing all such approvals as soon as reasonably practicable, and in no event later than the time period contemplated in the Proposed Purchase Agreement. c. Bid is reasonably likely (based on antitrust or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Winning Bid, within a time frame acceptable to the Debtors in consultation with the Consultation Parties. 12. <u>Authorization.</u> Each Bid must include evidence of corporate authorization with respect to the submission, execution, and delivery of a Bid, participation in the Auction, and closing the Sale Transaction(s), in form and substance acceptable to the Debtors in consultation with the Consultation Parties. 13. <u>Expectation of Close.</u> A Bid must express an appropriate date by which the Bidder believes it could close the proposed Sale Transaction. 14. <u>Other Requirements.</u> a. A Qualified Bidder must agree to serve as a Back-up Bidder if such bidder's Qualified Bid is selected as the second highest or otherwise best bid after the Winning Bid with respect to the relevant Assets.

SUMMARY OF THE BIDDING PROCEDURES	
	b. A Qualified Bid must be binding, unconditional, and irrevocable until the first business day following the close of any Sale Transaction(s) with the Winning Bidder(s) for the applicable Assets. c. Unless the Potential Bidder has been selected as the Stalking Horse Bidder, a statement that the Bid does not entitle the Potential Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment or reimbursement, and a waiver of any substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code related to the bidding process. d. Provide contact information of the specific person(s) whom the Debtors or their proposed counsel should contact in the event that the Debtors have any questions or wish to discuss the Bid submitted by the Potential Bidder. e. Written evidence of available cash, a commitment for financing (not subject to any conditions other than those expressly set forth in the Proposed Purchase Agreement) and such other evidence of ability to consummate the transaction contemplated by the Proposed Purchase Agreement, the Bidding Procedures Order, and the Bidding Procedures, as acceptable in the Debtors' business judgment, in consultation with the Consultation Parties. f. Provide the identity of each entity that will be participating in connection with such Bid and taking ownership of the relevant Assets and a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed and to consummate the transaction contemplated by the Proposed Purchase Agreement. g. Covenant to cooperate with the Debtors to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements. h. Detailed analysis of the value of any non-cash component of the Bid, if any, and back-up documentation to support such value.

SUMMARY OF THE BIDDING PROCEDURES	
Provisions Providing Bid Protections to a “Stalking Horse” or Initial Bidder	Stalking Horse Bid Protections – The Debtors are and shall be authorized, but not obligated, in an exercise of their reasonable business judgment, and in consultation with the Consultation Parties, to: (A) select one Stalking Horse Bid and enter into one Stalking Horse Agreement with respect to the Assets; and (B) in connection with any Stalking Horse Agreement and in recognition of such Stalking Horse Bidder’s expenditure of time, energy, and resources, the Debtors may, in consultation with the Consultation Parties, determine to (i) provide Bid Protections in the form of break-up fee in an amount not to exceed three percent (3%) of the applicable cash Purchase Price and agree to an Expense Reimbursement. To the extent the Bid Protections do not otherwise comply with these Bidding Procedures, the Debtors reserve the right to seek Court approval of such Bid Protections. The applicable Debtors’ entry into a Stalking Horse Agreement and/or provision of Bid Protections to a Stalking Horse Bidder shall be in compliance with the DIP documents and the Debtors’ obligations thereunder. No later than two (2) business days after selecting one Stalking Horse Bidder, the Debtors shall file with the Court and serve a notice that (A) identifies the Stalking Horse Bidder and the material terms of the applicable Stalking Horse Bid, including the Purchase Price and the Assets to which such Stalking Horse Bid relates; and (B) attaches a copy of the corresponding Stalking Horse Agreement (the “<u>Stalking Horse Notice</u>”).
Modification of Bidding and Auction Procedures	Modification – Any portion of the Bidding Procedures may be modified by the Debtors in their business judgment, in consultation with the Consultation Parties.
Closing with Alternative Back-up Bidders	1. <u>Back-Up Bids</u>. The Debtors may, in consultation with the Consultation Parties, identify which Qualified Bid(s) constitute the second highest or otherwise best bid(s) and deem such second or otherwise best bid a back-up bid (a “<u>Back-up Bid</u>,” and the bidder submitting such Bid, a “<u>Back-up Bidder</u>”). Back-up Bid(s) will remain open and irrevocable until the earliest to occur of: a. applicable “outside date” for consummation of the Sale Transaction(s) set forth in the Back-up Bid, b. consummation of the Sale Transaction(s) with a Winning Bidder, and c. release of such Back-up Bid by the Debtors in writing (such date, the “<u>Back-up Bid Expiration Date</u>”). 2. If a Sale Transaction with a Winning Bidder is terminated prior to the Back-up Bid Expiration Date, the Back-up Bidder will be deemed Winning Bidder and will be obligated to consummate the Back-up-Bid as if it were a Winning Bid.
Provisions Governing the Auction	A. Participants and Attendees: 1. Only Qualified Bidders will be eligible to participate in the Auction. 2. Professionals and/or other representatives of the Debtors and of any of the Consultation Parties will be permitted to attend and observe the Auction. 3. Qualified Bidder(s) must confirm on record that they have not engaged in any collusion and that its Qualified Bid represents a binding, good faith, bona fide offer.

SUMMARY OF THE BIDDING PROCEDURES	
	B. Auction Procedures: 1. <u>Open Auction</u>. The Auction will be transcribed or recorded. 2. <u>Baseline Bids</u>. Bidding for the Assets will start with the highest or otherwise best Purchase Price and/or terms received as determined by the Debtor, in consultation with the Consultation Parties. 3. <u>Minimum Overbid</u>. Bidding increments will begin in the amount of \$500,000 (the “<u>Minimum Overbid Amount</u>”). The Debtors have the right to increase or decrease the Minimum Overbid Amount at any time during the Auction, in consultation with the Consultation Parties. 4. <u>Credit Bids</u>. For purposes of evaluating competing bids, every dollar of a credit bid shall be treated the same as a dollar from a cash bid, and a credit bid shall not be considered inferior to a comparable cash bid because it is a credit bid. The fact that a Bid is composed of a credit bid (whether in whole or in part) shall not be a factor considered by the Debtors in their determination of the highest or otherwise best Bid for such asset. C. Selection of Winning Bid(s) and Back-up Bid(s) – No later than two (2) business days following the selection of one or more Winning Bidder(s), the Debtors will file with the Court and post on the website of the Debtors’ claims and noticing agent a notice of the Winning Bid(s), Winning Bidder(s), Back-up Bid(s), and Back-up Bidder(s), as applicable. The Debtors will not consider any bids submitted after the conclusion of the Auction unless they determine in good faith, after consulting with the Consultation Parties, that their fiduciary duties require otherwise. D. Fiduciary Out – For the avoidance of doubt, nothing in the Bidding Procedures, including, without limitation, the auction procedures, prevents the Debtors from exercising their respective fiduciary duties under applicable law (as reasonably determined in good faith by the Debtors in consultation with their outside legal counsel).

STALKING HORSE BIDDER AND BID PROTECTIONS

19. To further increase the competitiveness of the marketing and sale process, the Debtors seek authority, but with no obligation, to (i) select one party to act as a Stalking Horse Bidder, (ii) provide such Stalking Horse Bidder with Bid Protections in the form of (A) a break-up fee, as described in further detail below (the “Breakup Fee”), and (B) reimbursement of reasonable and documented out-of-pocket fees and expenses (the “Expense Reimbursement”) and/or (iii) agree to provide other appropriate and customary protections that are reasonably acceptable

to the Debtors or otherwise approved by the Court (together with the Breakup Fee and the Expense Reimbursement, the “Bid Protections”); *provided* that the aggregate amount of Bid Protections that may be paid to the Stalking Horse Bidder shall not exceed three percent (3%) of the Stalking Horse Bidder’s proposed purchase price or a certain comparable amount as agreed upon by the Debtors and the Stalking Horse Bidder in the case of a Restructuring Transaction. The Debtors request that the Court approve the Bid Protections and payment thereof, subject to the following notice and objection procedures.

20. No later than two business days after the selection of the Stalking Horse Bidder (if such selection is made), the Debtors will file with the Court, and post on the case website at <https://cases.ra.kroll.com/Mosaic/> (the “Case Website”) a notice that contains information about the Stalking Horse Bidder and such Stalking Horse Bidder’s bid and attaches the proposed Stalking Horse Agreement (the “Stalking Horse Notice”).

21. Having the flexibility to designate a Stalking Horse Bidder and offer Bid Protections provides the Debtors with the ability to maximize the value of the Assets by potentially setting a “floor” for the assets and encourages bidders to come forth quickly with committed offers to purchase. Given the Debtors’ goal of maximizing value, the ability to designate a Stalking Horse Bidder and offer Bid Protections to each such bidder is a reasonable and sound exercise of the Debtors’ business judgment and will provide an actual benefit to the Debtors’ estates. However, the Debtors ultimately may, in the exercise of their reasonable business judgment and in consultation with the Consultation Parties, choose to not designate a Stalking Horse Bidder and/or offer Bid Protections if they determine that doing so would maximize the value of the assets.

22. Parties in interest may file objections to the designation of the Stalking Horse Bidder or any of the terms of the Stalking Horse Agreement, including any of the proposed Bid

Protections, within ten (10) days after service of the Stalking Horse Notice (each such objection, a “Stalking Horse Objection” and such deadline, the “Stalking Horse Objection Deadline”). If a timely Stalking Horse Objection is filed and served in accordance with the Bidding Procedures and the Bidding Procedures Order, the proposed designation of the Stalking Horse Bidder and the Bid Protections under such Stalking Horse Agreement will not be deemed approved until either the Stalking Horse Objection is resolved by agreement of the objecting party and the Debtors or by order of the Court. If no timely Stalking Horse Objection is filed and served with respect to a Stalking Horse Bid in accordance with the Bidding Procedures and the Bidding Procedures Order, the Bid Protections contemplated by such Bid shall be deemed approved without further order of the Court upon the expiration of the Stalking Horse Objection Deadline.

NOTICE PROCEDURES

23. The Debtors also request approval of the Sale Notice, substantially in the form attached as Exhibit 2 to the Bidding Procedures Order. The Debtors will serve the Sale Notice by email, mail, or facsimile within two (2) business days of entry of the Bidding Procedures Order upon: (a) the Office of the United States Trustee for the Southern District of Texas; (b) the Prepetition Agent (as defined in the DIP Motion);⁷ (c) the DIP Agent (as defined in the DIP Motion), and all parties known by the Debtors to assert a lien on any of the Assets; (d) all persons known or reasonably believed to have expressed an interest in acquiring all or a portion of the Assets within the twelve (12) months prior to the Petition Date; (e) the Office of the United States Attorney for the Southern District of Texas; (f) the Office of the Attorney General in each state in

⁷ “DIP Motion” means the Debtors’ *Emergency Motion for the Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying Automatic Stay, and (IV) Granting Related Relief*, filed contemporaneously herewith.

which the Debtors operate; (g) the Office of the Secretary of State in each state in which the Debtors operate or are organized; (h) all taxing authorities having jurisdiction over any of the Assets, including the Internal Revenue Service; (i) all environmental authorities having jurisdiction over any of the Assets, including the Environmental Protection Agency; (j) all of the Debtors' other known creditors and equity security holders, including the Counterparties; (k) all other parties that had filed a notice of appearance and demand for service of papers in these Chapter 11 Cases as of the service date, and (l) counsel to any official committee appointed in these Chapter 11 Cases.

24. The Bid Deadline by which bids must be actually received by the Debtors and their advisors is **July 21, 2025 at 5:00 p.m. (prevailing Central Time)**.

25. The Debtors intend to conduct the Auction, if necessary, on **August 5, 2025 at 9:00 a.m. (prevailing Central Time)**, or such other time to be announced by the Debtors, in person or by videoconference or such other form of remote communication established by the Debtors.

26. As soon as reasonably practicable after entry of the Bidding Procedures Order, the Debtors shall serve the Sale Notice, the Bidding Procedures Order and the Bidding Procedures (by email, if available, or otherwise, by first class mail) on the following parties or their respective counsel, if known: (i) the Notice Parties (as defined below); (ii) the Contract Counterparties; (iii) the United States Attorney's Office for the Southern District of Texas; (iv) the state attorneys general for states in which the Debtors conduct business; (v) the DIP Agent, the Prepetition Agent and all other all parties asserting a security interest in the Assets to the extent reasonably known to the Debtors; (vi) all parties who have previously expressed a written interest to the Debtors or their Advisors in potentially acquiring all or part of the Assets; and (vii) all other known parties

with any interest in the Assets; *provided* that the Debtors need not serve the Sale Notice on any party for whom the Debtors are unable to obtain, after reasonable diligence, an email or physical address as of the entry of the Bidding Procedures Order; *provided, further*, that the Debtors shall not be obligated to provide supplemental service of the Sale Notice with respect to any Sale Notice that is returned as undeliverable so long as the Debtors have confirmed that any such Sale Notice was sent to the applicable email or physical address on file in the Debtors' books and records and no other email or physical address could be obtained after reasonable diligence.

27. The Debtors will also cause a form of the Sale Notice to be published once in the *New York Times* or another publication with similar national circulation as soon as practicable following entry of the Bidding Procedures Order and will post the Sale Notice on the Case Website. Publication of the Sale Notice will provide notice to all interested parties whose identities are unknown to the Debtors. The Sale Notice will include (i) the date and time of the Stalking Horse Deadline, (ii) the date and time of the Bid Deadline, (iii) the date, time, and place of the Auction and the Sale Hearing and (iv) the deadline for filing any objections related to any Sale Transaction(s).

28. The Debtors submit that the Sale Notice constitutes good and adequate notice of the Auction and Transaction and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. The Debtors propose that no other or further notice of the Auction and Transaction shall be required and submit that the notice is reasonably calculated to provide all interested parties with timely and proper notice of the proposed sale, including the date, time, and place of the Auction (if one is held), the Bidding Procedures, and the dates and deadlines related thereto. Accordingly, the Debtors request that the

form and manner of the Sale Notice be approved and that the Court determine that no other or further notice of the Auction and Transaction is required.

29. The Debtors request that the Court approve the form of Post-Auction Notice attached as Exhibit 4 to the Bidding Procedures Order. The Debtors propose that, as soon as practicable after the conclusion of the Auction (if any) and in no event less than two business days before the Sale Hearing, the Debtors shall file on the Court's docket and serve, by overnight delivery, on the Counterparties the Post-Auction Notice identifying any Winning Bidder(s) and Back-up Bidder(s).

THE ASSUMPTION AND ASSIGNMENT PROCEDURES

30. The Debtors seek approval of the Assumption and Assignment Procedures to facilitate the fair and orderly assumption and assignment of the Designated Contracts in connection with any Sale Transaction(s). Generally, the Assumption and Assignment Procedures are designed to, among other things, (i) outline the process by which the Debtors would serve notice to all counterparties (the "Contract Counterparties") to the Designated Contracts regarding (a) the potential assumption and assignment of such agreements in connection with the sale of the Assets, and (b) related Cure Costs, and (ii) information regarding a Winning Bidder's adequate assurance of future performance, and (iii) establish objection and other relevant deadlines and the manner for resolving disputes relating to the assumption and assignment of the Designated Contracts, to the extent necessary.

31. The Debtors propose that the following Assumption and Assignment Procedures govern the assumption and assignment of the Designated Contracts in connection with the sale of any of the Assets to one or more Winning Bidder(s):

Assumption and Assignment Notice. Within **three (3) business days after entry of the Bid Procedures Order**, the Debtors will file with the Court, cause to be

published on the Debtors' case information website located at the Case Website, and serve on each relevant Contract Counterparty the Assumption and Assignment Notice, which shall include as an exhibit a schedule (the "Designated Contract Schedule"), that specifies each of the Debtors' executory contracts and unexpired leases that may be assumed and assigned in connection with a Sale Transaction, including the name of each relevant Contract Counterparty, and the respective Cure Costs, if any, relating to such executory contract or unexpired lease. The Cure Notice will also (i) state that the Debtors are or may be seeking the sale, assumption, and assignment of the Designated Contracts; (ii) state that assumption or assignment of any of the Designated Contracts is not guaranteed and is subject to designation by a Winning Bidder and Court approval; (iii) prominently display the deadlines by which Contract Counterparties must file a Contract Objection or an Adequate Assurance Objection (as defined below); and (iv) prominently display the date, time, and location of the Sale Hearing.

- a. **Contract Objection.** Any objection by a Counterparty to a Designated Contract (a "Contract Objection") other than an objection based on the ability of the Winning Bidder or Back-up Bidder (as applicable) to provide adequate assurance of future performance must (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules and Bankruptcy Local Rules; (iii) be filed with the Clerk of Court on or before **the date that is 14 calendar days after service of the applicable Assumption and Assignment Notice** (the "Contract Objection Deadline"); (iv) be served (whether by ECF or otherwise), on or before the Contract Objection Deadline, upon the Objection Notice Parties; and (v) state with specificity the grounds for such objection, including, without limitation, the fully liquidated cure amount and the legal and factual bases for any unliquidated cure amount that the Contract Counterparty believes is required to be paid under Bankruptcy Code sections 365(b)(1)(A) and (B) for the applicable Designated Contract, along with the specific nature and dates of any alleged defaults, the pecuniary losses, if any, resulting therefrom, and the conditions giving rise thereto.
- b. **Adequate Assurance Objections.** As soon as practicable after the Auction and in no event later than the Post-Auction Objection Deadline, the Debtors shall file with the Court and serve, by overnight delivery, on the Counterparties a Post-Auction Notice, and the Counterparties shall file any Contract Objections solely on the basis of adequate assurance of future performance ("Adequate Assurance") by the Winning Bidder (each, an "Adequate Assurance Objection"); provided that the deadline for any Counterparty to a Designated Contract for which a supplemental or revised Assumption and Assignment Notice was filed and served less than seven (7) days before the commencement of the Sale Hearing to assert an Adequate Assurance Objection shall be seven (7) days after the service of such supplemental or revised Assumption and Assignment Notice. In the event that such supplemental or revised Assumption and Assignment Notice was filed and served less than seven (7) days prior to the commencement of the Sale Hearing and an objection is filed that is not otherwise consensually resolved, then such objection will not be adjudicated at the Sale Hearing and will be set for a subsequent hearing. Any

Adequate Assurance Objection must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any order governing the administration of these Chapter 11 Cases; (iii) state with specificity the nature of the objection, including, if applicable, the adequate assurance alleged to be required, together with any applicable and appropriate documentation in support thereof; (iv) be filed with the Court no later than the Post-Auction Objection Deadline, and (v) be served on the Objection Notice Parties (as defined below).

- c. **Objection Notice Parties.** Each Contract Objection and Adequate Assurance Objection must be filed with the Court and served on the following parties (the “Objection Notice Parties”) so as to be received no later than the Contract Objection Deadline or Post-Auction Objection Deadline, as applicable: (i) proposed counsel to the Debtors, (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson; (ii) the Office of the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002; (iii) counsel for the official committee of unsecured creditors (if any) appointed in these Chapter 11 Cases; and (iv) those persons who have formally appeared in these Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002.
- d. **Resolution of Assumption and Assignment Objections.** If a Contract Counterparty timely files a Contract Objection or Adequate Assurance Objection and the Winning Bidder has designated that it wishes to take assignment of such contract or lease, and the parties are unable to consensually resolve the dispute prior to the Sale Hearing, then such Contract Objection or Adequate Assurance Objection will be resolved at the Sale Hearing, but such contract or lease shall be assumed and assigned only upon satisfactory resolution of the Contract Objection or Adequate Assurance Objection, to be determined in the Winning Bidder’s discretion. If a Contract Objection or Adequate Assurance Objection is not satisfactorily resolved, the Winning Bidder may determine that such contract or lease should not be assigned in connection with the Winning Bidders’ Sale Transaction(s), in which case the Winning Bidder will not be responsible for any Cure Costs or Adequate Assurance with respect to such executory contract or unexpired lease, *provided, however*, that if the Contract Objection relates solely to a dispute with respect to the cure amount required to be paid to the applicable Counterparty under Bankruptcy Code sections 365(b)(1)(A) and (B) (any such dispute, a “Cure Dispute”), the Selected Designated Contract may be assumed by the Debtors and assigned to the Winning Bidder, provided that the cure amount the Counterparty asserts is required to be paid under Bankruptcy Code section 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Counterparty) is deposited in a segregated account by the Debtors pending the Court’s adjudication of the Cure Dispute or the parties’ consensual resolution of the Cure Dispute provided that the cure amount the Counterparty asserts is required

to be paid under Bankruptcy Code section 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Counterparty) is deposited in a segregated account by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution of the Cure Dispute.

- e. **Modification of Designated Contracts Schedule.** At any time prior to the closing of any Sale Transaction: the Debtors may (i) supplement the Designated Contracts Schedule with executory contracts or unexpired leases inadvertently omitted therefrom; (ii) remove or add any Designated Contracts from or to the list of executory contracts and unexpired leases ultimately selected as Designated Contracts that the Winning Bidder(s) proposes be assumed and assigned to it in connection with the Sale Transaction(s); and/or (iii) modify the proposed Cure Costs.
- f. **Supplemental Contract Objections.** A Contract Counterparty listed on a Supplemental Assumption and Assignment Notice may file an objection (a "**Supplemental Contract Objection**") on the same bases set forth above. All Supplemental Contract Objections must comply with the requirements set forth above, and be filed with the Court and served on the Objection Notice Parties no later than the date that is the later of (i) the Contract Objection Deadline, (ii) at least two days prior to the Sale Hearing in the event that such Supplemental Assumption and Assignment Notice was filed and served at least seven days prior to the commencement of the Sale Hearing; or (iii) seven (7) calendar days following the service of such Supplemental Assumption and Assignment Notice, in the event that such Supplemental Assumption and Assignment Objection was filed and served less than seven days prior to the commencement of the Sale Hearing.
- g. **Supplemental Assumption and Assignment Notice.** In the event that the Debtors exercise any of the rights reserved above, the Debtors will promptly file with the Court, cause to be published on the Case Website, and serve on each relevant Contract Counterparty a supplemental notice of assumption and assignment (the "**Supplemental Assumption and Assignment Notice**"). Each Supplemental Assumption and Assignment Notice will include the same information as would have been included in the Assumption and Assignment Notice.
- h. **Resolution of Supplemental Contract Objections.** If a Contract Counterparty timely files a Supplemental Contract Objection and the Winning Bidder(s) has designated that it wishes to take assignment of such contract or lease, and the parties are unable to consensually resolve the dispute, then, to the extent the Sale Hearing has occurred, the Debtors shall seek an expedited hearing before the Court to resolve such objection, but such Designated Contract shall be assumed and assigned only upon satisfactory resolution of the Supplemental Contract Objection, to be determined in the Winning Bidder's discretion. If a Supplemental Contract Objection is not satisfactorily resolved, the Winning Bidder may determine that such contract or lease should not be assigned in connection with the Winning Bidders' Sale Transaction(s), in which case the Winning Bidder will not be

responsible for any Cure Costs or Adequate Assurance with respect to such executory contract or unexpired lease.

- i. **Selected Designated Contracts.** At the Sale Hearing, the Debtors will seek Court approval of the assumption and assignment to the Winning Bidder(s) of only those Designated Contracts that have been selected by the Winning Bidder(s) to be assumed and assigned (collectively, the “Selected Designated Contracts”). The inclusion of a Designated Contract on an Assumption and Assignment Notice will not (i) obligate the Debtors to assume any Designated Contract listed thereon nor the Winning Bidder(s) to take assignment of such Designated Contract or (ii) constitute any admission or agreement of the Debtors that such Designated Contract is an executory contract. The Debtors and their estates reserve any and all rights with respect to any Designated Contracts that are not ultimately designated as Selected Designated Contracts
- j. **Failure to Timely File Contract Objections or Supplemental Assumption and Assignment Objections or Adequate Assurance Objections.** If a Contract Counterparty does not timely file an Adequate Assurance Objection, a Contract Objection or Supplemental Contract Objection: (i) the Cure Costs, if any, set forth in the Assumption and Assignment Notice (or Supplemental Assumption and Assignment Notice) shall be controlling, notwithstanding anything to the contrary in any Designated Contracts or any other document; and (ii) the Contract Counterparty will be deemed to have consented to the assumption and assignment of the Designated Contracts and the Cure Costs, if any, and will be forever barred from objecting to the assumption and assignment of such Designated Contracts and rights thereunder, including the Cure Costs, if any, and from asserting any other claims related to such Designated Contracts against the Debtors or the Winning Bidder.

If no objections are received with respect to any Designated Contracts, then the applicable Cure Cost set forth in the Designated Contracts Schedule will be binding upon the applicable Contract Counterparty for all purposes and will constitute a final determination of the Cure Cost required to be paid by the applicable Debtor in connection with the assumption and assignment thereof. In addition, any Contract Counterparty that fails to file a Contract, Objection or Supplemental Contract Objection or Adequate Assurance Objection, as applicable, in accordance with the Assumption and Assignment Procedures, will be (1) forever barred from objecting to the Cure Costs or Adequate Assurance, as applicable with respect to the applicable Designated Contract(s), and the Debtors and the applicable Winning Bidder(s) will be entitled to rely solely upon the Cure Cost set forth in the Designated Contract Assumption and Assignment Notice; (2) deemed to have consented to the assumption and assignment; and (3) forever barred and estopped from asserting or claiming against the applicable Debtor(s) or the applicable Winning Bidder(s) that any additional amounts are due or other defaults exist, that conditions to assignment must be satisfied, or that there is any other objection or defense to the assumptions or assignment of the applicable Designated Contracts.

- k. **Reservation of Rights.** The inclusion of a Designated Contract on the Designated Contracts Schedule will not: (i) obligate the Debtors to assume any Designated Contract listed thereon or obligate the Winning Bidder to take assignment of such Designated Contract; or (ii) constitute any admission or agreement of the Debtors that such Designated Contract is an executory contract or unexpired lease. Only those Designated Contract that are included on a schedule of assumed and assigned contracts attached to the definitive sale agreement with any Winning Bidder (including amendments or modifications to such schedules in accordance with such agreement) will be assumed and assigned to the Winning Bidder.

BASIS FOR RELIEF

I. The Relief Sought in the Bidding Procedures Order Is in the Best Interests of the Debtors' Estates and Should Be Approved

32. Adoption of the Bidding Procedures is a valid exercise of the Debtors' business judgment. Courts have made clear that a debtor's business judgment is entitled to substantial deference with respect to the procedures to be used in selling assets from its estate. *See, e.g., ASARCO, L.L.C. v. Elliott Mgmt. (In re ASARCO, L.L.C.)*, 650 F.3d 593, 603 (5th Cir. 2011) ("The business judgment standard in section 363 is flexible and encourages discretion."); *In re TM Vill., Ltd.*, No. 18-32770, 2019 Bankr. LEXIS 651, at *20 (Bankr. N.D. Tex. Feb. 28, 2019) ("As long as the sale appears to enhance a debtor's estate, court approval of a debtor-in-possession's decision to sell should only be withheld if the debtor's judgment is clearly erroneous, too speculative, or contrary to the provisions of the Bankruptcy Code.") (quoting *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985)). This standard prohibits other parties from second-guessing the debtor's business judgment if the debtor has shown that the proposed use will benefit the debtor's estate. *See In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) ("Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct."); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d

Cir. 2005) (“Overcoming the presumptions of the business judgment rule on the merits is a near Herculean task.”).

33. Here, the Debtors have sound business justifications for implementing the Bidding Procedures. The Debtors have designed the Bidding Procedures to promote a competitive and fair bidding process concurrently with pursuing confirmation of a plan of reorganization restructuring the Servicing Business and, thus, to maximize value for the Debtors’ estates and creditors under the unique circumstances and time pressures of these cases. The Bidding Procedures will allow the Debtors to conduct the Auction in a controlled, fair, and open fashion that will encourage participation by financially capable bidders, thereby increasing the likelihood that the Debtors will receive the highest or best possible consideration for the applicable Assets. Furthermore, the Bidding Procedures provide an appropriate framework for the Debtors to review, analyze, and compare any bids received to determine which bids are in the best interests of the Debtors’ estates and their creditors.

34. The paramount goal in any sale of property of a debtor’s estate is to maximize the proceeds realized by the estate. *See, e.g., In re Bigler, LP*, 443 B.R. 101, 115 (Bankr. S.D. Tex. 2010) (providing that the two goals for a sale of the debtors’ assets are “maximizing value for the estate and preserving the integrity of the judicial process”); *In re Monitor Dynamics, Inc.*, 2010 Bankr. LEXIS 4170, at *3 (Bankr. W.D. Tex. Aug. 3, 2010) (in approving bid procedures and bid protections, finding that they “represent the method for maximizing value for the benefit of the Debtor’s estate.”). Accordingly, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value realized by the estate and therefore are appropriate in the context of bankruptcy transactions. *See, e.g., Gluckstadt Holdings, L.L.C. v. VCR I, L.L.C. (In re VCR I, L.L.C.)*, 922 F.3d 323, 327 (5th

Cir. 2019); *In re Energy Future Holdings Corp.*, 593 B.R. 217, 246 (Bankr. D. Del. 2018) (recognizing the appropriateness of a debtors' bidding procedures where the "objective at all times was to maximize value for their estates, consistent with their fiduciary duties").

35. The Bidding Procedures provide for an orderly, uniform, and competitive process through which interested parties may submit offers to purchase the Assets through one or more Transactions. The Debtors have structured the Bidding Procedures to promote active bidding by interested parties and to elicit the highest or otherwise best offer(s) reasonably available for the Assets. Additionally, the Bidding Procedures allow the Debtors to conduct the Auction, if necessary, with participation by bidders who have demonstrated their financial capability and ability to consummate a transaction, as set forth in the Bidding Procedures. The Bidding Procedures also provide the Debtors with an opportunity to consider competing bids and to select the highest or otherwise best offers for the completion of a Sale Transaction. Moreover, maintaining the option to enter into a Stalking Horse Agreement with a Stalking Horse Bidder ensures that the Debtors retain flexibility to set a minimum purchase price for the Assets that will be tested by the marketplace. As such, the Debtors and their creditors can be assured that, taking into account the financial condition of the Debtors and the economy, the consideration obtained will be fair and reasonable and at or above market.

36. The Debtors believe that the proposed Bidding Procedures will encourage prospective bidders to put forward their best bids quickly in order to generate the highest or best recoveries for the Debtors' stakeholders and also provide for substantial flexibility with respect to the structure of any Transaction. The Bidding Procedures will also permit the Debtors a fair opportunity to market test the transactions embodied in the Plan Term Sheet to ensure the Debtors obtain maximum value for the Servicing Business. For these reasons, the Debtors submit that the

Bidding Procedures are a sound exercise of the Debtors' business judgment, are fair and transparent, and will derive the highest or best bids for the Assets during the Plan/Sale Process. Therefore, the Debtors request that the Court approve the Bidding Procedures, including, without limitation, the dates established thereby for the Auction and the Sale Hearing.

II. The Stalking Horse Bid Protections Should Be Approved

37. The Debtors submit that the proposed procedures and notice for the selection of a Stalking Horse Bidder, the execution of a Stalking Horse Agreement, the provision of Bid Protections to Stalking Horse Bidder, and Court approval of the foregoing are fair and reasonable under the circumstances. To the extent that the Debtors enter into a Stalking Horse Agreement, the Debtors request that the Court authorize the Debtors to provide the Bid Protections to the Stalking Horse Bidder. As noted above, the Bidding Procedures contemplate a break-up fee in an aggregate amount not to exceed three percent (3%) of the Stalking Horse Bidder's proposed cash purchase price, which shall be accorded administrative expense status under section 503(b) and 507(a)(2) of the Bankruptcy Code but solely payable directly out of the proceeds of a closing of a competing Transaction, which is an amount the Debtors assert is reasonable in this type of transaction and within the range of other court-approved bid protections fees. *See Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 662 (S.D.N.Y. 1992) (noting expert testimony that 3.3% is industry average for break-up fees); *see also, e.g., In re Lockwood Holdings, Inc.*, No. 18-30197 (DRJ) (Bankr. S.D. Tex. July 17, 2018) (approving break-up fee of 3% for a potential stalking horse bidder to be named later); *In re Stone Energy Corp.*, No. 16-26390 (MI) (Bankr. S.D. Tex. Jan. 18, 2017) (approving break-up fee of 3% of the purchase price); *In re UGHS Senior Living, Inc.*, No. 15-80399 (DRJ) (Bankr. S.D. Tex. Nov. 24, 2015) (approving 3% break-up fee and 1% expense reimbursement); *In re TransCom USA Mgmt. Co., L.P.*, No. 01-35158 (KKB) (Bankr. S.D. Tex., Feb. 12, 2002) (approving break-up

fee of more than 3.6%). Any Bid Protections will be negotiated at arms' length and in good faith and will be necessary to secure the Stalking Horse Bidder's participation in the proposed Transaction.

38. The Debtors will provide notice of, and an opportunity to object to, any selected Stalking Horse Bidder and Stalking Horse Agreement, including the Bid Protections, ensuring that parties in interest have the opportunity to voice any concerns they may have. If a timely Stalking Horse Objection is filed, the Debtors will schedule a hearing regarding such Stalking Horse Objection as soon as reasonably practicable seeking approval of such Stalking Horse Bid and in accordance with the Bidding Procedures Order and the Bidding Procedures.

39. The authority to pay a break-up fee to a Stalking Horse Bidder is in the best interests of their estates because, among other things, such Bid Protections will encourage receipt of Bids that will establish a floor for further bidding that may increase the consideration given in exchange for some or all of the Assets. *See Integrated Resources*, 147 B.R. at 659–60 (“Break-up fees are important tools to encourage bidding and to maximize the value of the debtor’s assets.”). A Stalking Horse Bidder will expend time and resources negotiating, drafting, and performing due diligence activities necessitated by the Bidding Procedures, although its bid will be subject to Court approval and overbidding by other interested parties. Without the Bid Protections, the Debtors may not be able to attract a Stalking Horse Bidder, which may impede the Debtors’ ability to maximize value.

40. The approval of bid protections, such as those proposed here, are subject to the general standard used for administrative expenses under section 503 of the Bankruptcy Code. *Energy Future*, 904 F.3d at 313 (citing *O’Brien*, 181 F.3d at 535); *Reliant Energy*, 594 F.3d at 206 (holding that the general standard used for all administrative expenses applies to break-up fees).

Thus, “the allowability of break-up fees, like that of other administrative expenses, depends upon the requesting party’s ability to show that the fees were actually necessary to preserve the value of the estate.” *Reliant Energy*, 594 F.3d at 206 (internal quotations omitted) (quoting *O’Brien*, 181 F.3d at 535); *see also Energy Future*, 904 F.3d at 314. Here, the Bid Protections to be paid under the circumstances described herein will satisfy the foregoing tests because they will be: (i) actual and necessary costs and expenses of preserving the Debtors’ estates within the meaning of Bankruptcy Code sections 503(b) and 507(a)(2); (ii) commensurate to the real and substantial benefit conferred upon the Debtors’ estates by the Stalking Horse Bidder; (iii) reasonable and appropriate, in light of the size and nature of the proposed sale transaction and comparable transactions, to the commitments that have been made and the efforts that have been and will be expended by the Stalking Horse Bidder; necessary to induce the Stalking Horse Bidder to continue to pursue the Transaction and to continue to be bound by the respective Stalking Horse Agreement; and (v) subject to all parties in interests’ rights to object and be heard with respect to approval of such Bid Protections.

41. In addition, payment of the Bid Protections in the context of a sale to another purchaser that outbids a Stalking Horse Bidder will not diminish the Debtors’ estates to the extent they become payable, as the Bidding Procedures require that any competing bid must exceed a Stalking Horse Bid by an amount in excess of the Bid Protections. The Debtors propose to pay the Bid Protections only if the Debtors determine, after good faith and arm’s-length negotiations, that providing such Bid Protections would be necessary and beneficial for their estates. Similar types of bid protections have been approved by this Court. *See, e.g. In re Sable Permian Resources, LLC*, No. 20-33193 (MI) (Bankr. S. D. Tex., Aug. 11, 2020) (D.I. 306); *In re Plenty Unlimited*

Texas LLC, et al., No. 25-90105 (CML) (Bank. S.D. Tex. March 24, 2025) (D.I. 31); *Matter of Bouchard Transportation Co., Inc.*, 74 F.4th 743, 748 (5th Cir. 2023).

42. Any deposit provided by a Stalking Horse Bidder or other Qualified Bidder (as required under the Bidding Procedures and/or any Stalking Horse Agreement) shall be held in a segregated account by the Debtors pending release pursuant to the terms of the Bidding Procedures or an order of the Court.

43. Accordingly, for the reasons set forth above, the Debtors respectfully request that the Court grant the Debtors the authority to incur and pay the Bid Protections in order to preserve the value of the Debtors' estates.

III. The Assumption and Assignment Procedures Should Be Approved

44. To facilitate and effectuate a Transaction, the Debtors are seeking approval of the Assumption and Assignment Procedures. The Assumption and Assignment Procedures are reasonable and necessary to properly notify parties of potential assumptions and assignments and provide the Contract Counterparties with sufficient time to determine the accuracy of the proposed cure amount and whether the Debtors have provided adequate assurance of future performance.

45. As set forth in the Assumption and Assignment Procedures, the Debtors are also requesting that any Counterparty that fails to object to the proposed assumption and assignment of any Designated Contract be deemed to consent to the assumption and assignment of the applicable Designated Contract pursuant to Bankruptcy Code section 365 and on the terms set forth in the Sale Order, notwithstanding any anti-alienation provision or other restriction on assignment contained in the applicable contract or lease. See, e.g., *Hargrave v. Township of Pemberton (In re Tabone, Inc.)*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (finding that by not objecting to sale motion, creditor was deemed to consent); *Pelican Homestead v. Wooten (In re Gabel)*, 61 B.R. 661, 667 (Bankr. W.D. La. 1985) (same).

46. The Assumption and Assignment Procedures are fair and reasonable, provide sufficient notice to the Counterparties to the Designated Contracts regarding the potential assumption and assignment of the Designated Contracts, and provide certainty to all parties in interest regarding their obligations and rights in respect thereof. Accordingly, the Debtors request that the Court approve the Assumption and Assignment Procedures.

IV. The Form and Manner of the Sale Notice and Post-Auction Notice Should Be Approved

47. Pursuant to Bankruptcy Rule 2002(a), the Debtors are required to provide their creditors with notice of the Sale Hearing. Pursuant to Bankruptcy Rule 2002(c)(1), such notice must include the time and place of the Auction and the Sale Hearing and the deadline for filing any objections to the relief requested herein.

48. The Debtors submit that notice of this Motion and the related hearing to consider entry of the Bidding Procedures Order, together with service of the Sale Notice and the Post-Auction Notice as provided for herein, constitutes good and adequate notice of the Auction, any Winning Bid(s) and Back-Up Bid(s), the Sale Hearing and the proceedings with respect thereto, in compliance with, and in satisfaction of, the applicable requirements of Bankruptcy Rules 2002, 6004, and 6006.

V. The Proposed Sale is Appropriate and in the Best Interests of the Debtors' Estates and Should Be Approved as an Exercise of the Debtors' Sound Business Judgment

49. Bankruptcy Code section 363(b) provides that a debtor may sell property of the estate outside the ordinary course of business after notice and a hearing. In both this Circuit and others, courts have found that a debtor's sale or use of its assets outside the ordinary course of business should be approved if the debtor can demonstrate "some articulated business justification," as established by the Second Circuit in *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983), which decision has been adopted

in this circuit. See *Institutional Creditors of Continental Air Lines, Inc. v. Continental Air Lines, Inc., et al. (In re Continental Air Lines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“[F]or a debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”); see also *In re ASARCO*, 650 F.3d at 601; *In re Cowin*, No. 13-30984, 2014 WL 1168714, at *38 (Bankr. S.D. Tex. Mar. 21, 2014); *In re St. Marie Clinic PA*, No. 10-70802, 2013 WL 5221055, at *9 (Bankr. S.D. Tex. Sept. 17, 2013); *In re Particle Drilling Techs., Inc.*, No. 09-33744, 2009 WL 2382030, at *2 (Bankr. S.D. Tex. July 29, 2009); *In re San Jacinto Glass Indus., Inc.*, 93 B.R. 934, 944 (Bankr. S.D. Tex. 1988). Provided that the Debtors articulate a valid business justification, “[t]he business judgment rule ‘is a presumption that in making the business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.’” *In re S.N.A. Nut Co.*, 186 B.R. 98 (Bankr. N.D. Ill. 1995); see also *Integrated Resources*, 147 B.R. at 656; *In re Johns- Manville Corp.*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) (“a presumption of reasonableness attaches to a Debtor’s management decisions”).

50. The Debtors have a sound business justification for selling the Assets via one or more Sale Transactions after running a competitive bidding process for the sale of the Assets consistent with the Bidding Procedures and consistent with the Plan/Sale Process. The competitive bidding process will ensure that the Debtors obtain the best possible value for their assets, for the benefit of the Debtors’ estates during the Plan/Sale Process. Moreover, notice of the Sale Transaction(s) will be served in a manner consistent with the Bankruptcy Code and otherwise include all information relevant to parties interested in or affected by such Sale Transaction. Significantly, the form and manner of the Sale Notice will have been approved by this Court

pursuant to the Bidding Procedures Order. As such, the Debtors' determination to sell the Assets after running a competitive bidding process as provided for in the Bidding Procedures is a valid and sound exercise of the Debtors' business judgment.

VI. The Proposed Sale Satisfies the Requirements of Section 363(f) of the Bankruptcy

51. The Debtors further submit that it is appropriate to sell the Assets free and clear of any liens, claims, or interests in such property pursuant to section 363(f) of the Bankruptcy Code, with any such liens attaching to the net sale proceeds of the Assets to the same extent and with the same priority as such liens held against the Assets immediately prior to the Transaction. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of an entity's liens if: (i) such a sale is permitted under applicable non-bankruptcy law; (ii) the party asserting such a lien, claim, 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, or interest could be compelled, in a legal or equitable proceeding, to accept a money satisfaction for such interest.

52. Section 363(f) of the Bankruptcy Code is drafted in the disjunctive, therefore, satisfaction of any one of its five requirements will suffice to permit the sale of the Assets "free and clear" of liens. *In re Nature Leisure Times, LLC*, No. 06-41357, 2007 Bankr. LEXIS 4333, at *7 (Bankr. E.D. Tex. Dec. 19, 2007) ("The language of § 363(f) is in the disjunctive such that a sale free and clear of an interest can be approved if any one of the aforementioned conditions contained in § 363(f) are satisfied."). Furthermore, a debtor possesses broad authority to sell assets free and clear of liens. *See, e.g., In re Trans World Airlines, Inc.*, 322 F.3d 283, 289 (3d Cir. 2003). Additionally, the Court also may authorize the sale of a debtor's assets free and clear of any liens pursuant to section 105 of the Bankruptcy Code, even if section 363(f) did not apply. *See In re Ditech Holding Corp.*, 606 B.R. at 591 ("[P]lan sales can be free and clear of claims without

invoking section 363(f).”); *In re Trans World Airlines. Inc.*, No. 01–0056, 2001 WL 1820325, at *3 (Bankr. D. Del. Mar. 27, 2001) (“[B]ankruptcy courts have long had the authority to authorize the sale of estate assets free and clear even in the absence of section 363(f).”); *see also Volvo White Truck Corp. v. Chambersberg Beverage, Inc. (In re White Motor Credit Corp.)*, 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987) (“Authority to conduct such sales [free and clear of liens] is within the court’s equitable powers when necessary to carry out the provisions of Title 11”).

53. The Debtors believe that one or more of the tests of section 363(f) of the Bankruptcy Code will be satisfied with respect to the transfer of the Assets, and the Debtors will be able to demonstrate at the Sale Hearing that they have satisfied one of these conditions. To the extent the Debtors find that any party may hold a lien on all, or a portion of, the Assets, the Debtors will provide such party with notice of, and an opportunity to object to, the Transaction. Absent objection, each such party will be deemed to have consented to the sale of the Assets.

VII. A Winning Bidder Should Be Entitled to the Protections of Section 363(m) of the Bankruptcy Code

54. Pursuant to Bankruptcy Code section 363(m), a good faith purchaser is one who purchases assets for value, in good faith, and without notice of adverse claims. *See, e.g., O’Dwyer v. O’Dwyer (In re O’Dwyer)*, 611 Fed. App’x 195, 200 (5th Cir. 2015); *Mark Bell Furn. Warehouse, Inc. v. D.M. Reid Assoc., Ltd. (In re Mark Bell Furniture Warehouse, Inc.)*, 992 F.2d 7, 9 (1st Cir. 1993); *In re Abbotts Dairies of Pa.*, 788 F.2d 143, 147 (3d Cir. 1986); *Willemain v. Kivitz (In re Willemain)*, 764 F.2d 1019, 1023 (4th Cir. 1985); *Factory Mut. Ins. V. Panda Energy Int’l (In re Hereford Biofuels, LP)*, 466 B.R. 841, 860 (Bankr. N.D. Tex. 2012). An appropriate characterization of good faith in a bankruptcy sale is a lack of “fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other

bidders.” *In re Bleaufontaine, Inc.*, 634 F.2d 1383, 1388 n.7 (5th Cir. 1981) (quoting *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)).

55. Any agreement consummating a Transaction will be negotiated at arm’s length by sophisticated parties, each represented by their own advisors. Accordingly, the Debtors request that the Sale Order include a provision that the Winning Bidder for the Assets is a “good faith” purchaser within the meaning of Bankruptcy Code section 363(m). The Debtors assert that providing any Winning Bidder with such protection will ensure that the highest or otherwise best offer will be received by the Debtors for the Assets and closing of the same will occur promptly.

VIII. Assumption and Assignment of Executory Contracts and Unexpired Leases Should Be Authorized

56. Section 365(a) of the Bankruptcy Code provides that a debtor in possession “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” The standard governing approval of a debtor’s decision to assume or reject an executory contract or unexpired lease is whether the debtors’ reasonable business judgment supports assumption or rejection. *See, e.g., In re Senior Care Ctrs., LLC*, No. 18-33967, 2019 Bankr. LEXIS 3185, at *7 (Bankr. D. N.D. Tex. Oct. 4, 2019) (citing *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985)); *In re Republic Airways Holdings Inc.*, 2016 Bankr. LEXIS 1927, at *10-11 (Bankr. S.D.N.Y. May 3, 2016) (citing *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984) (stating that Section 365 is traditionally subject to the “business judgment” standard); *In re Gucci*, 193 B.R. 411 (S.D.N.Y. 1996); *Mission Prod. Holdings, Inc. v. Tempnology, LLC*, 139 S. Ct. 1652, 1658 (2019) (noting that a bankruptcy court will generally approve a debtor’s choice to assume or reject an executory contract under the deferential business judgment rule (citation omitted)).

57. The “business judgment” test in this context only requires that a debtor demonstrate that assumption or rejection of an executory contract or unexpired lease benefits the estate. *See, e.g., In re Tayfur*, 599 Fed. App’x. 44, 46 (3rd Cir. 2015); *In re Republic Airways Holdings Inc.*, Case No. 16-10429, 2016 Bankr. LEXIS 1927, at *10-11 (Bankr. S.D.N.Y. May 3, 2016) (“Courts generally will not second-guess a debtor’s business judgment concerning whether an assumption or rejection benefits the debtor’s estate.”); *In re Gunner Hotel Assoc.*, 96 B.R. 696, 698, (Bankr. W.D. Tex. 1988); *In re Food City, Inc.*, 94 B.R. 91, 93–94 (Bankr. W.D. Tex. 1988); *Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co. (In re Wheeling-Pittsburgh Steel Corp.)*, 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987) (quoting *In re Stable Mews Assoc.*, 41 B.R. 594, 596 (Bankr. S.D.N.Y. 1984) (“The business judgment test “requires only that the trustee (or debtor-in-possession) demonstrate that rejection of the executory contract will benefit the estate.”)).

58. Any further requirement would slow the administration of the debtor’s estate, increase costs, and interfere with the Bankruptcy Code’s provision for private control of administration of the estate. *See Richmond Leasing Co. v. Capital Bank, NA.*, 762 F.2d 1303, 1311 (5th Cir. 1985). Where a debtor demonstrates a valid business justification for a decision, it is presumed that “in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *Integrated Resources*, 147 B.R. at 656 (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). Importantly, a sound business purpose for the sale of a debtor’s assets outside the ordinary course of business exists where such sale is necessary to preserve the value of the estate for the benefit of creditors and interest holders. *See, e.g., Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co., (In re Wheeling-Pittsburgh Steel Corp.)*, 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987) (stating that the business judgment test “requires only that the trustee [or debtor in

possession] demonstrate that [assumption or] rejection of the executory contract will benefit the estate.”); *see also N.L.R.B. v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984); *Control Data Corp. v. Zelman (In re Minges)*, 602 F.2d 38, 42–43 (2d Cir. 1979); *In re Riodizio, Inc.*, 204 B.R. 417, 424-25 (Bankr. S.D.N.Y. 1997); *In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994).

59. The assumption of the Selected Designated Contracts in connection with a Transaction is fair and reasonable exercise of the Debtors’ sound business judgment because a Winning Bidder may determine that such contracts and leases may be necessary to operate the Debtors’ businesses. As such, the assumption and assignment of the Selected Designated Contracts could be essential to obtaining the highest or otherwise best offer for the Assets, is an exercise of sound business judgment, and should be approved.

60. Prior to assuming an executory contract, however, Bankruptcy Code section 365(b)(1) requires that any outstanding defaults under the contracts to be assumed be cured or that the Debtors provide adequate assurance that such defaults will be promptly cured.

61. The Debtors respectfully submit that, prior to any assumption of a Selected Designated Contract, the Debtors and/or a Winning Bidder will cure any amounts necessary to assume the Selected Designated Contract. Indeed, as required by the Bankruptcy Code, the Debtors’ assumption and assignment of the Designated Contracts will be contingent upon payment or reserve of Cure Costs in connection with the Transaction.

62. Once an executory contract is assumed, the Bankruptcy Code provides that the Debtors may elect to assign such contract. *See In re Rickel Home Center, Inc.*, 209 F.3d 291, 299 (3d Cir. 2000) (“The Code generally favors free assignability as a means to maximize the value of the debtor’s estate.”). Pursuant to section 365(f)(2) of the Bankruptcy Code, a debtor may assign

an executory contract or unexpired lease of nonresidential real property if “adequate assurance of future performance by the assignee of such contract or lease is provided.”

63. The meaning of “adequate assurance of future performance” depends on the facts and circumstances of each case but should be given “practical, pragmatic construction.” *Carlisle Homes, Inc. v. Arrari (In re Carlisle Homes, Inc.)*, 103 B. R. 524, 538 (Bankr. D.N.J. 1989); *see also Absinthe Bar, L.L.C. v. Bourbon Saloon, Inc. (In re Bourbon Saloon, Inc.)*, 647 Fed. App’x. 342, 346 (5th Cir. 2016) (“A bankruptcy court’s determination of adequate assurance of future performance and the ability to cure under § 365 is a fact-specific question”) (citing *Tex. Health Enters. Inc. v. Lytle Nursing Home (In re Tex. Health Enters. Inc.)*, 72 F. App’x. 122, 126 (5th Cir. 2003)); *Winters Nursery LLC v. Color Spot Holdings, Inc. (In re Color Spot Holdings, Inc.)*, 2018 WL 3996938, at *2 (D. Del. 2018); *In re Texas Health Enterprises, Inc.*, 246 B.R. 832, 834 (Bankr. E.D. Tex Jan. 27, 2000); *In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (stating that adequate assurance of future performance does not mean absolute assurance that debtor will thrive). 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. *See In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (adequate assurance of future performance is present when the prospective assignee of a lease has the financial resources and expressed willingness to devote sufficient funding to the business to give it a strong likelihood of succeeding). To the extent necessary, the Debtors will present facts at the Sale Hearing to show the financial credibility, willingness, and ability of the Winning Bidder to perform under the Selected Designated Contracts. The Sale Hearing will afford the Court and other interested parties the opportunity to evaluate the ability of the Winning Bidder to provide adequate assurance of

future performance under the Designated Contracts, as required under Bankruptcy Code section 365(b)(1)(C).

64. Accordingly, the Debtors submit that implementation of the proposed Assumption and Assignment Procedures is appropriate in these chapter 11 cases. The Debtors respectfully request that this Court authorize the Debtors to assume and assign the Selected Designated Contracts as may be set forth in a Sale Transaction with the Winning Bidder.

WAIVER OF BANKRUPTCY RULES 6004(a) AND 6004(h)

65. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

66. Nothing contained herein or any actions taken pursuant to such relief requested is intended or shall be construed as (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; (f) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; (h) an admission as to the validity, priority, enforceability, or perfection of any lien on,

security interest in, or other encumbrance of property of the Debtors' estates; or (i) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in this Motion are valid and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. If the Court grants the relief sought herein, any payment made pursuant to an order of the Court is not intended and should not be construed as an admission as to the validity or priority of any claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

Notice

67. Notice of this Motion will be provided to: (a) the Office of the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002; (b) Jefferies LLC, 520 Madison Avenue, New York, New York 10022, Attn: Richard W. Morgner; (c) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (d) counsel to any statutory committee appointed in the Chapter 11 Cases; (e) the Prepetition Agent (as defined in the DIP Motion);⁸ (f) the DIP Agent (as defined in the DIP Motion), and any other party known by the Debtors to have asserted a lien on any of the Assets; (g) the Office of the United States Attorney for the Southern District of Texas; (h) the state attorneys general for states in which the Debtors conduct business; (i) the Internal Revenue Service; and (j) those parties who have formally filed requests for notice in the chapter 11 cases pursuant to Bankruptcy Rule 2002

⁸ “DIP Motion” means the Debtors’ *Emergency Motion for the Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying Automatic Stay, and (IV) Granting Related Relief*, filed contemporaneously herewith.

(collectively, the “Notice Parties”). In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

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WHEREFORE, the Debtors respectfully request that the Court (i) enter the Bidding Procedures Order, substantially in the form attached hereto as **Exhibit A**, (ii) enter the Sales Order(s) following the Conclusion of the Sale Hearing, and (iii) grant them the relief requested in this Motion and such other and further relief as is just and proper.

Dated: June 6, 2025
Houston, Texas

/s/ Charles Persons

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-and-

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Proposed Counsel to the Debtors and Debtors in Possession

Certificate of Service

I certify that on June 6, 2025, I, Charles Persons, caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Charles Persons
Charles Persons

EXHIBIT A

Proposed Bidding Procedures Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

MOSAIC SUSTAINABLE FINANCE
CORPORATION, *et. al.*,¹

Debtors.

Chapter 11

Case No. 25-90156 (CML)

(Joint Administration Requested)

**ORDER (A) APPROVING (I) BIDDING
PROCEDURES, (II) CERTAIN BID PROTECTIONS IN
CONNECTION WITH A STALKING HORSE AGREEMENT,
IF ANY, (III) FORM AND MANNER OF NOTICE OF SALE,
AUCTION, AND SALE HEARING, AND (IV) ASSUMPTION
AND ASSIGNMENT PROCEDURES; (B) SCHEDULING AUCTION, SALE
HEARING, AND RELATED DEADLINES; AND (C) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of (a) an order (this “Order”): (i) authorizing and approving the proposed bidding procedures (the “Bidding Procedures”) attached hereto as **Exhibit 1**, in connection with one or more sales (each a “Sale Transaction”) of all, substantially all, or any combination of the Debtors’ assets (collectively, the “Assets”) free and clear of all claims, liens, and encumbrances; (ii) authorizing the Debtors to designate a stalking horse bidder (the “Stalking Horse Bidder”) for all, substantially all, or any combination of the Assets, if any, offer such Stalking Horse Bidder certain bid protections (the “Bid Protections”), and execute a stalking horse agreements (the “Stalking Horse Agreement”) with such Stalking Horse Bidder; (iii) scheduling

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Mosaic Sustainable Finance Corporation (6802); Solar Mosaic LLC (3655); Modern Home LLC (4998); Mosaic Funding Holdings LLC (0866); and SMCTX LLC (6303). The service address for each of the above Debtors is 601 12th Street, Suite 325, Oakland, California 94607.

² Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Motion or the Bidding Procedures (defined herein), as applicable.

an auction in connection with the Sale Transaction(s) (the “Auction”), hearing dates in connection with the approval of the Sale Transaction(s) (the “Sale Hearing”), and other deadlines with respect to the Sale Transaction(s); (iv) approving the form and manner of (a) notice of the Sale Transaction(s), the Auction, and the Sale Hearing, substantially in the form attached to the Bidding Procedures Order as Exhibit 2 (the “Sale Notice”) and (b) the notice of designation of a Stalking Horse Bidder (if any); and (v) approving procedures (the “Assumption and Assignment Procedures”) for the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale Transaction(s) (collectively, the “Designated Contracts”), and approving the form and manner of notice to each relevant non-Debtor counterparty (each, a “Contract Counterparty”) to an executory contract or unexpired lease regarding the Debtors’ proposed assumption and assignment of the Designated Contracts, including notice of proposed amounts necessary to cure any defaults thereunder (the “Cure Costs”), substantially in the form attached to the Bidding Procedures Order as Exhibit 3 (the “Assumption and Assignment Notice”); and granting related relief, all as more fully set forth in the Motion and the First Day Declaration; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having reviewed the Motion and the First Day Declaration and having heard the statements in support of the relief requested therein at the hearing on the Motion (the “Bidding Procedures Hearing”); and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

1. Jurisdiction and Venue. This Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334.

2. Venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.

3. Statutory and Legal Predicates. The statutory and legal predicates for the relief requested in the Motion are sections 105(a), 363, 365, and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6003, 6004, 6006, 9007, 9008 and 9014, and Local Rule 9013-1.

4. Notice. Good and sufficient notice of the relief sought in the Motion has been provided under the circumstances, and no other or further notice need be provided except as set forth in the Bidding Procedures and the Assumption and Assignment Procedures. A reasonable opportunity to object and be heard regarding the relief granted herein has been afforded to all parties in interest, including those persons and entities entitled to notice pursuant to Bankruptcy Rule 2002.

5. Bidding Procedures. The Debtors have articulated good and sufficient business reasons for the Court to approve the Bidding Procedures. The Bidding Procedures are fair, reasonable, and appropriate under the circumstances and designed to maximize the value of the proceeds of the Sale Transaction(s). The Bidding Procedures were negotiated in good faith and at arm's-length and are reasonably designed to promote a competitive and robust bidding process to generate the greatest level of interest in all or part of the Assets. The Bidding Procedures comply with the requirements of Local Rule 6004-1(c).

6. Bid Protections. The Bid Protections provided to the Stalking Horse Bidder (if any is selected) (a) are an actual and necessary cost and expense of preserving the Debtors' estates within the meaning of sections 503(b) and 507(a)(2) of the Bankruptcy Code, (b) are commensurate to the real and material benefits conferred upon the Debtors' estates by the Stalking Horse Bidder, and (c) are fair, reasonable, and appropriate, including in light of the size and nature of the proposed Transaction, the commitments that have been made, and the efforts that have been and will be expended by the Stalking Horse Bidder. The Bid Protections are necessary to induce the Stalking Horse Bidder to pursue a Transaction and to be bound by the Stalking Horse Agreement.

7. Sale Notice. The Sale Notice, substantially in the form attached as **Exhibit 2** hereto, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the sale of Assets, including the proposed sale, subject to entry of a final order, of the Assets free and clear of all liens, claims, and encumbrances; the Sale Transaction(s); the Bidding Procedures; the Auction; the Sale Objection Deadline; and the Sale Hearing, and no other or further notice is required.

8. Post-Auction Notice. The Post-Auction Notice, substantially in the form attached as **Exhibit 4** hereto, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of any Winning Bid(s) and Back-Up Bid(s), and no other or further notice is required.

9. Assumption and Assignment Procedures. The Debtors have articulated good and sufficient business reasons for the Court to find that the Assumption and Assignment Procedures, as set forth in the Motion, are fair, reasonable, and appropriate. The Assumption and Assignment Procedures provide an opportunity for all Contract Counterparties to raise any objections to the

proposed assumption and assignment of the Designated Contracts, including the proposed Cure Costs. The Assumption and Assignment Procedures comply with the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006. The Assumption and Assignment Notice, substantially in the form attached as **Exhibit 3** hereto, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the potential assumption and assignment of the Designated Contracts in connection with a sale of the Assets and the related Cure Costs, and no other or further notice is required.

10. Entry of this Order is in the best interests of the Debtors, their estates, their creditors, and all other interested parties, and the legal and factual bases set forth in the Motion, the First Day Declaration, and at the hearing on the Motion establish just cause for the relief granted herein.

11. The findings of fact and conclusions of law herein constitute the Court's findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

12. The Motion is granted as provided herein.

13. Any objections filed in response to the Motion and the relief granted herein, to the extent not resolved as set forth herein or on the record at the Hearing, are hereby overruled.

I. Important Dates and Deadlines

14. The schedule set forth below and all other dates and deadlines set forth in the Bidding Procedures are approved, subject to modification in accordance with the Bidding Procedures.

Date and Time	Event or Deadline
July 14, 2025 at 5:00 p.m. (prevailing Central Time)	Stalking Horse Bid Deadline. The deadline by which all Qualified Bids by bidders seeking to be the Stalking Horse Bidder must be actually received pursuant to the Bidding Procedures.
July 15, 2025 at 5:00 p.m. (prevailing Central Time)	Stalking Horse Designation Deadline. The deadline by which the Debtors may enter into a Stalking Horse Agreement with respect to the sale of some or all of the Assets.
Within two (2) business days following designation of the Stalking Horse Bidder (or as soon as practicable thereafter)	Notice of Stalking Horse. The date by which the Debtors will file with the Court the notice of the Debtors' entry into a Stalking Horse Agreement, the identity of the Stalking Horse Bidder, and the Bid Protections provided to the Stalking Horse Bidder.
July 21, 2025 at 5:00 p.m. (prevailing Central Time)	Bid Deadline. The deadline by which bids for the sale or sales of the Assets must be submitted.
July 22, 2025 at 5:00 p.m. (prevailing Central Time)	Qualified Bidders. The deadline for Debtors to notify bidders of their status as Qualified Bidders prior to the Auction
August 1, 2025 at 5:00 p.m. (prevailing Central Time)	Sale Objection Deadline. The deadline to (i) object to the Sale Transactions, and/or (ii) except as otherwise set forth in the Assumption and Assignment Procedures (defined below), object to the potential assumption or assumption and assignment of the Debtors' Designated Contracts and cure amounts related thereto, <i>provided that</i> , notwithstanding the foregoing, Post-Auction Objections shall be filed no later than the Post-Auction Objection Deadline (as defined below).
August 5, 2025 at 9:00 a.m. (prevailing Central Time)	Auction. The date and time that the Auction, if any, for Assets, will be held. The Auction will be held either at the offices of the proposed counsel for the Debtors, Paul Hastings LLP, 71 S. Wacker Drive, Chicago, IL 60606, or virtually, pursuant to procedures to be timely filed on the Court's docket in advance of the commencement of the Auction, or at such later date and time or other location, as selected by the Debtors in accordance with the Bidding Procedures
Within two (2) business days following the selection of Winning Bidder(s)	Notice of Winning Bidder(s). The date by which the Debtors will file with the Court the notice identifying the Winning Bidder(s).

August 6, 2025 at 5:00 p.m. (prevailing Central Time)	Post-Auction Objection Deadline. Following service of the Post-Auction Notice, parties with requisite standing may object to (i) the manner in which the Auction was conducted or the designation or court-approval of the Winning Bid(s) or Back-up Bid(s) or (ii) contract-counterparty Adequate Assurance Objections (each such objection, a “ <u>Post-Auction Objection</u> ”).
No later than three (3) days prior to the Sale Hearing	Reply Deadline. The deadline by which the Debtors must file replies to any objections to the Sale Transactions and/or the assumption or assumption and assignment of the Designated Contracts and cure amounts related thereto, other than with respect to Post-Auction Objections.
No later than August 14, 2025	Sale Hearing. The date and time that the Sale Hearing shall take place before the Court.

15. The failure by a party to timely file an objection in accordance with this Order shall forever bar such party from asserting any objection to the Motion, entry of an order approving a Sale Transaction(s), consummation of a Sale Transaction(s), and the assumption and assignment of contracts and leases to the Winning Bidder in connection with the Sale Transaction, and shall be deemed to constitute any such party’s consent to entry of the applicable order, assumption, assignment, consummation of the Sale Transaction(s) and all other transactions related thereto.

II. The Bidding Procedures

16. The Bidding Procedures, substantially in the form attached hereto as **Exhibit 1**, are hereby approved in their entirety, are fully incorporated herein by reference, and shall govern the submission, receipt, and analysis of bids for, and the Auction and a Transaction regarding the Debtors’ Assets. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures.

17. The failure to specifically include or reference any particular provision of the Bidding Procedures in the Motion or this Order shall not diminish or otherwise impair the effectiveness of such procedures, it being the Court’s intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order. The Debtors reserve the right, and are

authorized to, in consultation with the Consultation Parties, modify the Bidding Procedures in accordance with the Bidding Procedures. The Debtors are authorized to conduct the Auction, in consultation with the Consultation Parties, in accordance with the Bidding Procedures and this Order.

18. Any party desiring to submit a bid for the Assets shall comply with the Bidding Procedures and this Order. All parties submitting bids determined by the Debtors, in consultation to the Consultation Parties, to be Qualified Bids in accordance with the Bidding Procedures are deemed to have submitted to the jurisdiction of this Court with respect to all matters related to the Auction and the terms and conditions of the sale or transfer of the subject Assets.

19. Subject to this Order and the Bidding Procedures, the Debtors, in the exercise of their reasonable business judgment and in a manner consistent with their fiduciary duties and applicable law, and in consultation with the Consultation Parties, shall have the right to, without limitation: (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 offer; (iv) designate the second or otherwise best bids as Back-Up Bids, each as it relates to the Auction; (v) reject any bid (other than the Stalking Horse Bid) that the Debtors determine is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, or this Order, or (c) contrary to the best interests of the Debtors' estates and their creditors; (vi) impose such other terms and conditions upon Qualified Bidders as the Debtors determine to be in the best interests of the Debtors' estates; (vii) adjourn and/or cancel the Auction and/or the Sale Hearing in open court without further notice; and (viii) withdraw the Motion at any time with or without prejudice.

20. The Debtors shall have the right to, in their reasonable business judgment and in a manner consistent with their fiduciary duties and applicable law, and in consultation with the Consultation Parties, modify the Bidding Procedures, including to, among other things, (i) extend or waive deadlines or other terms and conditions set forth in the Bidding Procedures, (ii) adopt new rules and procedures for conducting the bidding and Auction process, or (iii) otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the value of the Assets; *provided*, that such extensions, waivers, new rules and procedures, accommodations, and modifications do not conflict with and are not inconsistent with this Order, the Bidding Procedures, the Bankruptcy Code, or any order of the Court.

21. Nothing in this Order or the Bidding Procedures shall obligate the Debtors to consummate or pursue any transactions with respect to any Asset with a Qualified Bidder. If the Debtors determine, in consultation with the Consultation Parties, not to conduct an Auction, then the Debtors shall file a notice with the Court of such determination within two business days of the making of such determination.

III. Stalking Horse Bid and Bid Protections

22. The Debtors shall be authorized, but not obligated, in an exercise of their reasonable business judgment and in accordance with the Bid Procedures and in consultation with the Consultation Parties, to: (i) select one Qualified Bidders to act as the Stalking Horse Bidder in connection with any Sale Transaction(s) and enter into a Stalking Horse Agreement with such Stalking Horse Bidder, and (ii) in connection with any Stalking Horse Agreement, to provide a Break-up Fee in an amount not to exceed three percent (3%) of the proposed cash Purchase Price, which shall be accorded administrative expense status under section 503(b) and 507(a)(2) of the Bankruptcy Code but solely payable directly out of the proceeds of a closing of a competing Transaction.

23. Except for a Stalking Horse Bidder (to the extent of the Bid Protections), no person or entity shall be entitled to any expense reimbursement, break-up fees, termination fees, or similar type of payment or reimbursement; and by submitting a bid, such person or entity is deemed to have waived their right to request or to file with the Court any request for allowance or payment of any such expense reimbursement or fee, whether by virtue of section 503(b) of the Bankruptcy Code or otherwise.

24. Any deposit provided by the Stalking Horse Bidder or other Qualified Bidder (as required under the Bidding Procedures and/or any Stalking Horse Agreement) shall be held in a segregated account by the Debtors pending release pursuant to the terms of the Bidding Procedures or an order of the Court.

25. If the Debtors, in consultation with the Consultation Parties, select a Stalking Horse Bidder for any of the Assets, the Debtors shall file a notice (the “Stalking Horse Notice”) regarding their selection within two (2) business days of selecting the Stalking Horse Bidder and provide no less than two (2) business days’ notice of the deadline to object to the Debtors’ acceptance of the Stalking Horse Bid to (i) the U.S. Trustee, (ii) the Consultation Parties, and (iii) those parties who have filed the appropriate notice pursuant to Bankruptcy Rule 2002 requesting notice of all pleadings filed in the Chapter 11 Cases (the “Stalking Horse Notice Parties”) with no other or further notice regarding the Stalking Horse Bidder, the Stalking Horse Bid, or the Bid Protections being required. Any Stalking Horse Notice will (a) set forth the identity of the Stalking Horse Bidder (and if the Stalking Horse Bidder is a newly formed entity, then the Stalking Horse Bidder’s parent company or sponsor); (b) set forth the amount of the Stalking Horse Bid, and, if the Stalking Horse Bidder is a credit bidder, what portion of its bid is a credit bid and what portion (if any) is cash; (c) state whether the Stalking Horse Bidder has any connection to the Debtors other than

those that arise from the Stalking Horse Bid; (d) confirm the proposed Bid Protections are consistent with the Bidding Procedures Order; (e) attach the purchase agreement finalized with the Stalking Horse Bidder or otherwise summarize the material terms thereof; and (f) set forth the deadline to object to the Stalking Horse Bidder designation. For the avoidance of doubt, upon entry of the Bidding Procedures Order, no further order approving the proposed Bid Protections shall be required if the proposed Bid Protections are consistent with the Bidding Procedures.

26. Objections to the designation of a Stalking Horse Bidder or any of the terms of a Stalking Horse Bid (a “Stalking Horse Objection”) shall (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Local Rules, (iii) state, with specificity, the legal and factual bases thereof, and (iv) be filed with the Court and served on the Notice Parties (as defined below) within two (2) business days after the service of the Stalking Horse Notice. No objections to any Bid Protections shall be permitted so long as the Bid Protections offered to the Stalking Horse Bidder are consistent with the Bidding Procedures Order.

27. If a timely Stalking Horse Objection is filed, the Debtors will schedule a hearing regarding such Stalking Horse Objection as soon as reasonably practicable seeking approval of such Stalking Horse Bid and in accordance with the Bidding Procedures Order and the Bidding Procedures. If no timely Stalking Horse Objection is filed and served with respect to the Stalking Horse Bid, upon the expiration of the objection deadline, the Debtors will submit a proposed order to the Court approving the Debtors’ entry into the Stalking Horse Bid (including the Stalking Horse Agreement and the Bid Protections), which the Court may enter without a hearing and any further or other notice except as required herein or under the Bidding Procedures, including with respect to any Bid Protections set forth in the Stalking Horse Notice.

IV. The Auction

28. If one or more of the same Qualified Bid with respect to the one or more of the same Assets is timely received, the Debtors may conduct an Auction to determine the Winning Bidder with respect to such Assets.

29. If an Auction is held, such Auction shall be held on **August 5, 2025 at 9:00 a.m. (prevailing Central Time)** or such other time to be announced by the Debtors in consultation with the Consultation Parties. Any Auction held will be conducted via remote video or in-person at the Debtors' election. As set forth more fully in the Bidding Procedures, only Qualified Bidders will be eligible to participate in the Auction.

V. Form and Manner of Sale Notice

30. The Sale Notice substantially in the form attached hereto as Exhibit 2 is approved. As soon as reasonably practicable after entry of this Order, the Debtors will cause the Sale Notice to be served upon the parties set forth in the Motion (*provided, however*, that to the extent email addresses are available for any of the foregoing parties, such parties may be served by email), posted on the Debtors' case information website located at the Case Website, and published once in the *New York Times* or another publication with similar national circulation. In addition, the Debtors are authorized, but not directed, to publish the Sale Notice in additional publications as the Debtors deem appropriate. Service of the Sale Notice as described herein shall be deemed good and sufficient notice of the Sale Transaction with respect to known interested parties. Publication of the Sale Notice as described herein shall be good and sufficient notice of the Sale Transaction with respect to all unknown parties. No other or further notice of any proposed Sale Transaction(s) or the Sale Hearing shall be required.

31. The form of Post-Auction Notice, substantially in the form attached as Exhibit 4, is approved. No later than two (2) business days after selection of a Winning Bidder, or as soon as

reasonably practicable thereafter, the Debtors shall file on the Court's docket and serve, by overnight delivery, on the Counterparties the Post-Auction Notice identifying, without limitation: (i) the Winning Bidder, (ii) the Back-Up Bidder, if applicable, (iii) the key terms of the proposed Sale Transaction, and (iv) the date, time, and place of the Sale Hearing. The filing and service of the Post Auction Notice as described herein shall be deemed good and sufficient notice of any Winning Bidder(s) and Back-up Bidder(s), and no other or further notice is required.

VI. Sale Hearing and Sale Objection Deadline

32. If the Debtors elect to proceed with a Sale Transaction pursuant to a sale under section 363 of the Bankruptcy Code, the Debtors will seek entry of a Sale Order authorizing and approving, among other things, the Sale Transaction(s) in which some or all of the Assets will be sold to the applicable Winning Bidder(s).

33. If any party fails to timely file with the Court and serve an objection by **August 1, 2025 at 5:00 p.m. (prevailing Central Time)** or otherwise abide by the procedures set forth in the Bidding Procedures regarding an objection to the Sale Transaction(s), such party shall be barred from asserting, at the Sale Hearing or otherwise, any objection to the relief requested in the Motion or to the consummation and performance of the Sale Transaction(s), including the transfer of the Assets to the Winning Bidder, free and clear of all liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code, and shall be deemed to "consent" for the purposes of section 363(f) of the Bankruptcy Code, *provided that*, notwithstanding the foregoing, All replies to any Sale Objection, except for those filed after the Sale Objection Deadline, must be filed by 5:00 p.m. (prevailing Central Time) no later than three (3) days prior to the Sales Hearing (the "Reply Deadline").

34. The Sale Hearing will be held no later than **August 14, 2025**. The Sale Hearing may be adjourned by this Court or the Debtors, in consultation with the Consultation Parties, from

time to time without further notice than by announcement in open court or through the filing of a notice or other document on this Court's docket. Unless the Court orders otherwise, any Sale Hearing shall be an evidentiary hearing on matters relating to the Sale Transaction(s) and there will be no further bidding at such hearing.

35. Following entry of the Sale Order, if the Winning Bidder fails to consummate the Winning Bid, the Debtors may, in consultation with the Consultation Parties, designate the Back-up Bid to be the new Winning Bid and the Back-up Bidder to be the new Winning Bidder, and the Debtors will be authorized, but not required, to consummate the transaction with the Back-up Bidder without further order of the Bankruptcy Court, so long as such Back-up Bid shall have been approved in connection with the Court's approval of the Winning Bid, or subject to Court approval if not. In such case of a breach or failure to perform on the part of the Winning Bidder and in such other circumstances as may be specified in the definitive documentation governing the Winning Bid, the defaulting Winning Bidder's deposit shall be forfeited to the Debtors. The Debtors' right to seek all available damages, including specific performance, from any defaulting Winning Bidder (including any Back-up Bidder designated as a Winning Bidder) in accordance with the terms of the Bidding Procedures are reserved.

VII. The Assumption and Assignment Procedures

36. Assumption and Assignment Procedures below are hereby approved and shall be the procedures by which the Debtors will notify Contract Counterparties to proposed Designated Contracts of proposed Cure Costs in the event the Debtors determine to assume and assign such Designated Contracts in connection with the sale of any of the Assets to one or more Winning Bidder(s). Nothing in this Order shall be deemed to limit the Debtors' ability to negotiate partial assumption and/or assumption and assignment of Designated Contracts with Contract Counterparties on a consensual basis.

- a. **Assumption and Assignment Notice.** Within three (3) business days after entry of the Bid Procedures Order, the Debtors will file with the Court, cause to be published on the Debtors' case information website located at <https://cases.ra.kroll.com/Mosaic/> (the "Case Website"), and serve on each relevant Contract Counterparty the Assumption and Assignment Notice, which shall include as an exhibit a schedule (the "Designated Contract Schedule"), that specifies each of the Debtors' executory contracts and unexpired leases that may be assumed and assigned in connection with a Sale Transaction, including the name of each relevant Contract Counterparty, and the respective Cure Costs, if any, relating to such executory contract or unexpired lease. The Cure Notice will also (i) state that the Debtors are or may be seeking the sale, assumption, and assignment of the Designated Contracts; (ii) state that assumption or assignment of any Designated Contracts is not guaranteed and is subject to designation by a Winning Bidder and Court approval; (iii) prominently display the deadlines by which Contract Counterparties must file a Contract Objection or an Adequate Assurance Objection (as defined below); and (iv) prominently display the date, time, and location of the Sale Hearing.

- b. **Contract Objections.** Any objection by a Counterparty to a Designated Contract (a "Contract Objection") other than an objection based on the ability of the Winning Bidder or Back-up Bidder (as applicable) to provide adequate assurance of future performance must (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules and Bankruptcy Local Rules; (iii) be filed with the Clerk of Court on or before the Contract Objection Deadline; (iv) be served (whether by ECF or otherwise), on or before the Contract Objection Deadline, upon the Objection Notice Parties; and (v) state with specificity the grounds for such objection, including, without limitation, the fully liquidated cure amount and the legal and factual bases for any unliquidated cure amount that the Contract Counterparty believes is required to be paid under Bankruptcy Code sections 365(b)(1)(A) and (B) for the applicable Designated Contract, along with the specific nature and dates of any alleged defaults, the pecuniary losses, if any, resulting therefrom, and the conditions giving rise thereto.

- c. **Adequate Assurance Objections.** As soon as practicable after the Auction and in no event less than two (2) business days before the date of the Sale Hearing, the Debtors shall file with the Court and serve, by overnight delivery, on the Counterparties a notice identifying any Winning Bidder(s) and Back-up Bidder(s), and the Counterparties shall file any Contract Objections solely on the basis of adequate assurance of future performance ("Adequate Assurance") by the Winning Bidder (each, an "Adequate Assurance Objection") not later than twenty-four (24) hours prior to the commencement of the Sale Hearing; provided that the deadline for any Counterparty to a Designated Contract for which a supplemental or revised Assumption and Assignment Notice was filed and served less than seven (7) days before the commencement of the Sale Hearing to assert an Adequate Assurance Objection shall be seven (7) days after the service of such supplemental or revised Assumption and Assignment Notice. In the event that such supplemental or revised

Cure n Notice was filed and served less than seven (7) days prior to the commencement of the Sale Hearing and an objection is filed that is not otherwise consensually resolved, then such objection will not be adjudicated at the Sale Hearing and will be set for a subsequent hearing. Any Designated Contract Adequate Assurance Objection must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any order governing the administration of these Chapter 11 Cases; (iii) state with specificity the nature of the objection, including, if applicable, the adequate assurance alleged to be required, together with any applicable and appropriate documentation in support thereof; (iv) be filed with the Court no later than the Post-Auction Objection Deadline; and (v) be served on the Objection Notice Parties (as defined below).

- d. **Objection Notice Parties.** Each Contract Objection and Adequate Assurance Objection must be filed with the Court and served on the following parties (the “Objection Notice Parties”) so as to be received no later than the Contract Objection Deadline or Post-Auction Objection Deadline, as applicable: (i) proposed counsel to the Debtors, (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson; (ii) the Office of the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002; (iii) counsel for the official committee of unsecured creditors (if any) appointed in these Chapter 11 Cases; and (iv) those persons who have formally appeared in these Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002.
- e. **Resolution of Assumption and Assignment Objections.** If a Contract Counterparty timely files a Contract Objection or Adequate Assurance Objection and the Winning Bidder has designated that it wishes to take assignment of such contract or lease, and the parties are unable to consensually resolve the dispute prior to the Sale Hearing, then such Contract Objection or Adequate Assurance Objection will be resolved at the Sale Hearing, but such contract or lease shall be assumed and assigned only upon satisfactory resolution of the Contract Objection or Adequate Assurance Objection, to be determined in the Winning Bidder’s discretion. If a Contract Objection or Adequate Assurance Objection is not satisfactorily resolved, the Winning Bidder may determine that such contract or lease should not be assigned in connection with the Winning Bidders’ Sale Transaction(s), in which case the Winning Bidder will not be responsible for any Cure Costs or Adequate Assurance with respect to such executory contract or unexpired lease, *provided, however*, that if the Contract Objection relates solely to a dispute with respect to the cure amount required to be paid to the applicable Counterparty under Bankruptcy Code sections 365(b)(1)(A) and (B) (any such dispute, a “Cure Dispute”), the Selected Designated Contract may be assumed by the Debtors and assigned to the Winning Bidder, provided that the cure amount the Counterparty asserts is required to be paid under Bankruptcy Code

section 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Counterparty) is deposited in a segregated account by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution of the Cure Dispute provided that the cure amount the Counterparty asserts is required to be paid under Bankruptcy Code section 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Counterparty) is deposited in a segregated account by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution of the Cure Dispute.

- f. **Modification of Designated Contracts Schedule.** At any time prior to the closing of any Sale Transaction: the Debtors may (i) supplement the Designated Contracts Schedule with executory contracts or unexpired leases inadvertently omitted therefrom; (ii) remove or add any Designated Contracts from or to the list of executory contracts and unexpired leases ultimately selected as Designated Contracts that the Winning Bidder(s) proposes be assumed and assigned to it in connection with the Sale Transaction(s); and/or (iii) modify the proposed Cure Costs.
- g. **Supplemental Assumption and Assignment Objections.** A Contract Counterparty listed on a Supplemental Assumption and Assignment Notice may file an objection (a "Supplemental Contract Objection") on the same bases set forth above. All Supplemental Contract Objections must comply with the requirements set forth above, and be filed with the Court and served on the Objection Notice Parties no later than the date that is the later of (i) the Contract Objection Deadline, (ii) at least two days prior to the Sale Hearing in the event that such Supplemental Assumption and Assignment Notice was filed and served at least seven days prior to the commencement of the Sale Hearing; or (iii) seven (7) calendar days following the service of such Supplemental Assumption and Assignment Notice, in the event that such Supplemental Assumption and Assignment Objection was filed and served less than seven days prior to the commencement of the Sale Hearing.
- h. **Supplemental Assumption and Assignment Notice.** In the event that the Debtors exercise any of the rights reserved above, the Debtors will promptly file with the Court, cause to be published on the Case Website, and serve on each relevant Contract Counterparty a supplemental notice of assumption and assignment (the "Supplemental Assumption and Assignment Notice"). Each Supplemental Assumption and Assignment Notice will include the same information as would have been included in the Assumption and Assignment Notice.
- i. **Resolution of Supplemental Assumption and Assignment Objections.** If a Contract Counterparty timely files a Supplemental Contract Objection and the Winning Bidder(s) has designated that it wishes to take assignment of such contract or lease, and the parties are unable to consensually resolve the dispute, then, to the extent the Sale Hearing has occurred, the Debtors shall seek an expedited hearing before the Court to resolve such objection, but such Designated Contract shall be assumed and assigned only upon satisfactory resolution of the Supplemental

Contract Objection, to be determined in the Winning Bidder's discretion. If a Supplemental Contract Objection is not satisfactorily resolved, the Winning Bidder may determine that such contract or lease should not be assigned in connection with the Winning Bidders' Sale Transaction(s), in which case the Winning Bidder will not be responsible for any Cure Costs or Adequate Assurance with respect to such executory contract or unexpired lease.

- j. **Failure to Timely File Assumption and Assignment Objections or Supplemental Assumption and Assignment Objections.** If a Contract Counterparty does not timely file an Adequate Assurance Objection, a Contract Objection or Supplemental Contract Objection: (i) the Cure Costs, if any, set forth in the Assumption and Assignment Notice (or Supplemental Assumption and Assignment Notice) shall be controlling, notwithstanding anything to the contrary in any Designated Contracts or any other document; and (ii) the Contract Counterparty will be deemed to have consented to the assumption and assignment of the Selected Designated Contracts and the Cure Costs, if any, and will be forever barred from objecting to the assumption and assignment of such Selected Designated Contracts and rights thereunder, including the Cure Costs, if any, and from asserting any other claims related to such Designated Contracts against the Debtors or the Winning Bidder.

If no objections are received with respect to any Designated Contracts, then the applicable Cure Cost set forth in the Designated Contracts Schedule will be binding upon the applicable Contract Counterparty for all purposes and will constitute a final determination of the Cure Cost required to be paid by the applicable Debtor in connection with the assumption and assignment thereof. In addition, any Contract Counterparty that fails to file a Contract, Objection or Supplemental Contract Objection or Adequate Assurance Objection, as applicable, in accordance with the Assumption and Assignment Procedures, will be (1) forever barred from objecting to the Cure Costs or Adequate Assurance, as applicable with respect to the applicable Designated Contract(s), and the Debtors and the applicable Winning Bidder(s) will be entitled to rely solely upon the Cure Cost set forth in the Designated Contract Assumption and Assignment Notice; (2) deemed to have consented to the assumption and assignment; and (3) forever barred and estopped from asserting or claiming against the applicable Debtor(s) or the applicable Winning Bidder(s) that any additional amounts are due or other defaults exist, that conditions to assignment must be satisfied, or that there is any other objection or defense to the assumptions or assignment of the applicable Designated Contracts.

- k. **Reservation of Rights.** The inclusion of a Designated Contract on the Designated Contracts Schedule will not: (i) obligate the Debtors to assume any Designated Contract listed thereon or obligate the Winning Bidder to take assignment of such Designated Contract; or (ii) constitute any admission or agreement of the Debtors that such Designated Contract is an executory contract or unexpired lease. Only those Designated Contracts that are included on a schedule of assumed and assigned contracts attached to the definitive sale agreement with any Winning Bidder

(including amendments or modifications to such schedules in accordance with such agreement) will be assumed and assigned to the Winning Bidder.

37. Within three (3) business days after entry of the Bid Procedures Order, the Debtors shall file with the Court, and serve on the Contract Counterparties, the Assumption and Assignment Notice, substantially in the form attached hereto as **Exhibit 3**, including the Designated Contracts Schedule.

38. Service of an Assumption and Assignment Notice does not constitute any admission or agreement of the Debtors that any Designated Contract is an executory contract or unexpired lease or that such Designated Contract will be assumed at any point by the Debtors or assumed and assigned pursuant to any Winning Bid. The Debtors and their estates reserve any and all rights with respect to any Designated Contracts that are not ultimately designated as Selected Designated Contracts.

VIII. Miscellaneous

39. All persons and entities that participate in the Auction or bidding for any Assets during the Sale Transaction(s) process shall be deemed to have knowingly and voluntarily (i) consented to the core jurisdiction of the Court to enter any order related to the Bidding Procedures, the Auction, or any other relief requested in the Motion or granted in this Order; (ii) waived any right to a jury trial in connection with any disputes relating to the Bidding Procedures, the Auction, or any other relief requested in the Motion or granted in this Order; and (iii) consented to the entry of a final order or judgment in connection with any disputes relating to the Bidding Procedures, the Auction, or any other relief requested in the Motion or granted in this Order, if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the relevant parties.

40. Any M&A Transaction Fee due to Jefferies³ as a result of the closing of any M&A Transaction shall be segregated and escrowed (for the exclusive benefit of Jefferies) from the proceeds of such M&A Transaction (including, without limitation, from the proceeds of any liquidation or other disposition of the Debtors' assets), as an express carve-out from the collateral of the Debtors' pre- and postpetition secured lenders, prior to any other use or distribution of such proceeds. If any M&A Transaction is the result of a winning bid (including on account of any credit bid) without a cash component sufficient to pay the corresponding M&A Transaction Fee due to Jefferies in full, then any resulting unpaid portion of the M&A Transaction Fee due to Jefferies shall be segregated and escrowed (for the exclusive benefit of Jefferies) at the closing of such M&A Transaction from the available cash of the Debtors, as an express carve-out from the collateral of the Debtors' pre- and postpetition secured lenders. For the avoidance of doubt, nothing in this Order shall prohibit or be construed to prohibit the use of any unencumbered assets of the Debtors or the proceeds thereof to pay any fees and expenses of Jefferies or the assertion or allowance of an administrative priority claim under sections 503(b)(2) and 507(a)(2) of the Bankruptcy Code, if applicable, on account of any fees or expenses of Jefferies.

41. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

42. The Debtors are authorized, in consultation with the Consultation Parties, to make changes to the Bidding Procedures, the Assumption and Assignment Procedures, and any related documents in order to facilitate a value-maximizing sale of the Assets without further order of the

³ Any terms used but not otherwise defined in this ¶ 40 shall have the meaning given to them in that certain engagement letter between the Debtors and Jefferies LLC, dated as of May 29, 2025.

Court, including, without limitation, the extension of various deadlines and changes to correct typographical and grammatical errors.

43. The failure to include or reference a particular provision of the Bidding Procedures specifically in this Bidding Procedures Order shall not diminish or impair the effectiveness or enforceability of such provision.

44. In the event of any inconsistency between this Order and the Bidding Procedures, this Order shall govern in all respects.

45. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; (f) a request to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; (h) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance of property of the Debtors' estates; or (i) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid and the rights of all

parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

46. Any substantial contribution claims by any Bidder are deemed waived, to the extent based solely on such Bidder's submission of a Bid in accordance with the Bidding Procedures.

47. This Order shall be binding on and inure to the benefit of the Debtors, including any chapter 7 or chapter 11 trustee or other fiduciary appointed for the estates of the Debtors.

48. To the extent any of the deadlines set forth in this Order do not comply with the Local Rules, such Local Rules are waived and the terms of this Order shall govern.

49. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

50. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

51. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: _____, 2025
Houston, Texas

THE HONORABLE CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Bidding Procedures

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

MOSAIC SUSTAINABLE FINANCE
CORPORATION, *et. al.*,¹²

Debtors.

Chapter 11

Case No. 25-90156 (CML)

(Joint Administration Requested)

BIDDING PROCEDURES FOR THE SALE OF THE DEBTORS' ASSETS

On June 6, 2025 (the “Petition Date”), Mosaic Sustainable Finance Corporation (“Mosaic”) and its debtor affiliates, as debtors and debtors in possession (collectively, the “Debtors”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of Texas (the “Court”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes under the lead case, Mosaic Sustainable Finance Corporation, *et al.*, No. 25-[] () (the “Chapter 11 Cases”). On [], 2025, the Bankruptcy Court entered an order [Docket No. []] (the “Bidding Procedures Order”),¹³ which approved these procedures (the “Bidding Procedures”) for the selection of the highest or otherwise best offer or collection of offers to acquire the Assets (as defined below) on the terms and conditions set forth herein.

Summary of Important Dates

These Bidding Procedures provide interested parties the opportunity to submit competing bids for all or any portion of the Assets (as defined below), and to participate in an auction to be conducted by the Debtors (the “Auction”), if necessary.

The key dates for the sale process are as follows. Such dates may be extended or otherwise modified by the Debtors, in consultation with the Consultation Parties (as defined below), by filing a notice of such extension or modification on the Court's docket; *provided* that if any extension breaches or is likely to breach a milestone, such extension shall require the written consent of the DIP Agent.

¹² The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Mosaic Sustainable Finance Corporation (6802); Solar Mosaic LLC (3655); Modern Home LLC (4998); Mosaic Funding Holdings LLC (0866); and SMCTX LLC (6303). The service address for each of the above Debtors is 601 12th Street, Suite 325, Oakland, California 94607.

¹³ Unless otherwise indicated, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or Bidding Procedures Order, as applicable.

Date and Time	Event or Deadline
July 14, 2025 at 5:00 p.m. (prevailing Central Time)	Stalking Horse Bid Deadline. The deadline by which all Qualified Bids by bidders seeking to be the Stalking Horse Bidder must be actually received pursuant to the Bidding Procedures.
July 15, 2025 at 5:00 p.m. (prevailing Central Time)	Stalking Horse Designation Deadline. The deadline by which the Debtors may enter into a Stalking Horse Agreement with respect to the sale of some or all of the Assets.
Within two (2) business days following designation of the Stalking Horse Bidder (or as soon as practicable thereafter)	Notice of Stalking Horse. The date by which the Debtors will file with the Court the notice of the Debtors' entry into a Stalking Horse Agreement, the identity of the Stalking Horse Bidder, and the Bid Protections provided to the Stalking Horse Bidder.
July 21, 2025 at 5:00 p.m. (prevailing Central Time)	Bid Deadline. The deadline by which bids for the sale or sales of the Assets must be submitted.
July 22, 2025 at 5:00 p.m. (prevailing Central Time)	Qualified Bidders. The deadline for Debtors to notify bidders of their status as Qualified Bidders prior to the Auction
August 1, 2025 at 5:00 p.m. (prevailing Central Time)	Sale Objection Deadline. The deadline to (i) object to the Sale Transactions, and/or (ii) except as otherwise set forth in the Assumption and Assignment Procedures (defined below), object to the potential assumption or assumption and assignment of the Debtors' Designated Contracts and cure amounts related thereto, <i>provided that</i> , notwithstanding the foregoing, Post-Auction Objections shall be filed no later than the Post-Auction Objection Deadline (as defined below).
August 5, 2025 at 9:00 a.m. (prevailing Central Time)	Auction. The date and time that the Auction, if any, for Assets, will be held. The Auction will be held either at the offices of the proposed counsel for the Debtors, Paul Hastings LLP, 71 S. Wacker Drive, Chicago, IL 60606, or virtually, pursuant to procedures to be timely filed on the Court's docket in advance of the commencement of the Auction, or at such later date and time or other location, as selected by the Debtors in accordance with the Bidding Procedures
Within two (2) business days following the selection of Winning Bidder(s)	Notice of Winning Bidder(s). The date by which the Debtors will file with the Court the notice identifying the Winning Bidder(s).
August 6, 2025 at 5:00 p.m. (prevailing Central Time)	Post-Auction Objection Deadline. Following service of the Post-Auction Notice, parties with requisite standing may object to (i) the manner in which the Auction was conducted or the designation or court-approval of the Winning Bid(s) or Back-up Bid(s) or (ii) contract-counterparty Adequate Assurance Objections (each such objection, a " <u>Post-Auction Objection</u> ").
No later than three (3) days prior to the Sale Hearing	Reply Deadline. The deadline by which the Debtors must file replies to any objections to the Sale Transactions and/or the assumption or assumption and assignment of the Designated

	Contracts and cure amounts related thereto, other than with respect to Post-Auction Objections.
No later than August 14, 2025	Sale Hearing. The date and time that the Sale Hearing shall take place before the Court.

Purchase and Sale Agreement

The Debtors have drafted a form of Purchase and Sale Agreement (together with all ancillary documents and agreements, the “PSA”), in consultation with the Consultation Parties, for parties interested in acquiring the Assets. The Debtors intend to provide copies of the form of PSA to all parties who express interest in submitting a Bid in the form of a Section 363 sale and will also make such form of PSA available in the electronic data room established by the Debtors in connection with their sale process.¹⁴ Pursuant to the form of PSA, the Winning Bidder shall acquire the Assets free and clear of any and all interests to the maximum extent permitted by section 363 of title 11 of the United States Code (the “Bankruptcy Code”) subject to certain other conditions.

For the avoidance of doubt, a Qualified Bid and/or a Winning Bid (each as defined below) may take the form of a Sale Transaction to be consummated either through a Section 363 sale of all or substantially all of the Assets pursuant to the PSA or a Restructuring Transaction as set forth in a plan of reorganization (a “Restructuring Transaction” and, together with a Sale Transaction, each a “Transaction”), which may be submitted in the form of a term sheet (a “Plan Term Sheet”). Nothing herein shall preclude a Bidder from submitting a Bid in the form of a Plan Term Sheet, it being understood that the Debtors, in consultation with the Consultation Parties, reserve the right to modify these procedures, including, without limitation, the Qualified Bid requirements, as necessary or appropriate to reflect the submission and the Debtors’ consideration of one or more Bids in the form of a Restructuring Transaction; *provided* that in order for a Bid in the form of a Plan Term Sheet to constitute a Qualified Bid, the Debtors, in consultation with the Consultation Parties, must determine in good faith that such Bid is capable of satisfying the requirements of section 1129 of the Bankruptcy Code and being consummated. Any Bid in the form of a Plan Term Sheet satisfying the requirements of this paragraph may be determined by the Debtors, in consultation with the Consultation Parties, to be a Qualified Bid, Winning Bid, Stalking Horse Bid or Back-up Bid (each as defined below).

Marketing Process and Participation Requirements

Confidentiality Agreement.

The Debtors developed a list of parties whom they believe may be interested in, and whom the Debtors reasonably believe would have the financial resources to consummate, a Transaction. The Debtors shall distribute to each such party (to the extent not already distributed) and any other

¹⁴ For the avoidance of doubt, parties may purchase substantially all or any portion of the Assets, and the Debtors intend to provide parties interested in acquiring substantially all of the Assets or any portion thereof with a form of PSA.

interested party an “Information Package” consisting of: (i) a copy of these Bidding Procedures, the Bidding Procedures Order, and the Motion; (ii) a form confidentiality agreement (a “Confidentiality Agreement”); and (iii) such other materials as the Debtors deem appropriate under the circumstances.

Electronic Data Room and Due Diligence.

The Debtors have posted copies of all material documents related to the Assets to the Debtors’ confidential electronic data room (the “Data Room”). To access the Data Room, an interested party (other than the DIP Agent and the Prepetition Agent, both of whom will automatically be provided with immediate access to the Data Room without complying with any requirements set forth herein) must submit to the Debtors or their advisors the following (collectively, the “Preliminary Bid Documents”):

1. an executed Confidentiality Agreement in form and substance reasonably satisfactory to the Debtors (unless such party is already a party to an existing confidentiality agreement with the Debtors that is acceptable to the Debtors for this due diligence process, in which case such agreement will govern); and
2. sufficient information, as reasonably determined by the Debtors, to allow the Debtors to determine that the interested party (i) has the financial wherewithal to consummate the applicable proposed Transaction, and (ii) intends to access the Data Room for a purpose consistent with these Bidding Procedures.
3. a statement that such party has a bona fide interest in executing the Transaction; and
4. a statement detailing whether such interested party is partnering with or otherwise working with any other interested party in connection with the potential submission of a joint Bid, the identity of any such party or parties, and a concise description of the nature of such partnership or joint bid to the extent reasonably practicable (a “Partner Statement”).

The Preliminary Bid Documents must be delivered to each of: (i) the Debtors’ proposed counsel, (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson, and (ii) Jefferies LLC, 520 Madison Avenue, New York, New York 10022, Attn: Richard W. Morgner.

Each interested party that meets the above requirements to the satisfaction of the Debtors will be a “Potential Bidder.” As soon as practicable, the Debtors will provide all Potential Bidders access to the Data Room; *provided*, that such access will be terminated by the Debtors in their reasonable discretion at any time, including if (i) a Potential Bidder does not become a Qualified Bidder, (ii) such Potential Bidder fails to comply with reasonable requests for information and due diligence access by the Debtors or their advisors regarding the ability of such Potential Bidder to

consummate the applicable proposed Sale Transaction, or (iii) these Bidding Procedures are terminated.

Each Potential Bidder will comply with all reasonable requests for information and due diligence access by the Debtors or their advisors regarding the ability of such Potential Bidder to consummate the applicable proposed Sale Transaction.

Until the Bid Deadline, the Debtors will provide all Potential Bidders with reasonable access to the Data Room and any additional information requested by Potential Bidders that the Debtors believe to be reasonable and appropriate under the circumstances. All additional due diligence requests will be directed to the Debtors' proposed counsel, (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson and (c) Jefferies LLC, 520 Madison Avenue, New York, New York 10022, Attn: Richard W. Morgner. Unless prohibited by law or otherwise determined by the Debtors, the availability of additional due diligence to a Potential Bidder will cease if (i) the Potential Bidder does not become a Qualified Bidder, (ii) such Potential Bidder fails to comply with reasonable requests for information and due diligence access by the Debtors or their proposed counsel regarding the ability of such Potential Bidder to consummate the applicable proposed Sale Transaction, or (iii) these Bidding Procedures are terminated.

Neither the Debtors nor any of their representatives will be obligated to furnish any information of any kind whatsoever relating to the Assets (i) to any person or entity who (a) is not a Potential Bidder; (b) does not comply with the participation requirements set forth above; (c) if sharing such information would jeopardize the Debtors' trade secrets, or (d) in the case of competitively sensitive information, is a competitor of the Debtors, and (ii) to the extent not permitted by law. Failure by a Potential Bidder to comply with requests for additional information and due diligence access or any of the other Qualified Bid Conditions may be a basis for the Debtors to determine, in consultation with the Consultation Parties, that a bid made by such Qualified Bidder is not a Qualified Bid.

Stalking Horse Bidder and Bid Protections

Up until **July 15, 2025 at 5:00 pm (prevailing Central Time)**, the Debtors shall be authorized, but not obligated, in the exercise of their business judgment and in consultation with the Consultation Parties, to: (i) select a Bidder to act as the stalking horse bidder in connection with the Transaction (the "Stalking Horse Bidder," and the bid of the Stalking Horse Bidder a "Stalking Horse Bid") and enter into a purchase agreement or plan term sheet with respect to a Transaction with such Stalking Horse Bidder (the "Stalking Horse Agreement") and (ii) in connection with the Stalking Horse Agreement, (a) provide a breakup fee (the "Breakup Fee") and (b) agree to reimburse reasonable and documented out-of-pocket fees and expenses (the "Expense Reimbursement"), and/or (c) agree to provide minimum overbid protections, all as reasonably acceptable to the Debtors, after consultation with the Consultation Parties, and as otherwise approved by the Court (together with the Breakup Fee and Expense Reimbursement, the "Bid Protections"); *provided* that the aggregate amount of Bid Protections that may be paid to the Stalking Horse Bidder shall not exceed three percent (3%) of the Stalking Horse Bidder's proposed purchase price in the case of a Sale Transaction or a comparable amount as agreed upon by the

Debtors, in consultation with the Consultation Parties, and the Stalking Horse Bidder in the case of a Restructuring Transaction and shall be payable only from the cash proceeds from a Transaction with another Bidder which is designated the Winning Bidder. To the extent the Bid Protections do not otherwise comply with these Bidding Procedures, the Debtors reserve the right to seek Court approval of such Bid Protections. Subject to the below paragraph, no later than two business days after the selection of a Stalking Horse Bidder, the Debtors shall file a notice with the Court of such selection that includes a copy of an executed and binding Stalking Horse Agreement. Notwithstanding the foregoing, the Prepetition Agent and DIP Agent shall not be entitled to a Breakup Fee or Expense Reimbursement in connection with a Transaction.

No later than two (2) business days after selecting one Stalking Horse Bidder, the Debtors shall file with the Court and serve a notice that (A) identifies the Stalking Horse Bidder and the material terms of the applicable Stalking Horse Bid, including the Purchase Price and the Assets to which such Stalking Horse Bid relates; and (B) attaches a copy of the corresponding Stalking Horse Agreement (the “Stalking Horse Notice”). Parties in interest may file objections to the designation of the Stalking Horse Bidder or any of the terms of the Stalking Horse Agreement, including to any of the proposed Bid Protections, within ten days after service of the Stalking Horse Notice (the “Stalking Horse Objection Deadline”). If a timely Stalking Horse Objection is filed and served in accordance with the Bidding Procedures and the Bid Procedures Order, the proposed designation of the Stalking Horse Bidder and the Bid Protections under such Stalking Horse Agreement will not be deemed approved until either the Stalking Horse Objection is resolved by agreement of the objecting party and the Debtors or by order of the Court. If no timely Stalking Horse Objection is filed and served with respect to the Stalking Horse Bid in accordance with the Bidding Procedures and this Order, the Bid Protections contemplated by such Bid shall be deemed approved without further order of the Court upon the expiration of the Stalking Horse Objection Deadline.

Bidding and Auction Process

I. Bid Deadline.

A Potential Bidder that desires to make a bid (a “Bid”) on some or all of the Assets will deliver electronic copies of the Bid, so as to be received no later than July 21, 2025 at 5:00 p.m. (prevailing Central Time) (the “Bid Deadline”); provided, that the Debtors may, in consultation with the Consultation Parties, extend the Bid Deadline without further order of the Court subject to providing prior notice to all Potential Bidders, provided further, that if the extension of the Bid Deadline breaches or is likely to breach a Milestone (as defined in the DIP Credit Agreement), such extension shall require the written consent of the DIP Agent. The submission of a Bid by the Bid Deadline will constitute a binding and irrevocable offer to acquire the Asset(s) specified in such Bid. Any party that does not submit a Bid by the Bid Deadline will not be allowed to (i) submit any offer after the Bid Deadline or (ii) participate in the Auction (if any).

II. Form and Content of Qualified Bids.

A Bid must contain a signed document from a Potential Bidder received by the Bid Deadline that identifies the purchaser by its legal name and any other party that will be participating in connection with the Bid. To constitute a “Qualified Bid” a Bid (other than any

Bid by the DIP Agent and/or the Prepetition Agent) must, as determined by the Debtors in consultation with the Consultation Parties, satisfy, at a minimum, the following:

Purchase Price.

Each Bid must: (i) clearly state which Assets the Potential Bidder is agreeing to purchase and which liabilities the Potential Bidder is agreeing to assume; and (ii) clearly set forth the purchase price to be paid in the event of a Sale Transaction or other consideration to be furnished in the event of a Restructuring Transaction, including and identifying separately any cash and non-cash components (the “Purchase Price”). Each Bid for a combination of Assets, other than for all or substantially all of the Assets, must: (i) provide a breakdown of the share of the Purchase Price allocable to each of the Assets included in the Bid; (ii) state whether the Bid is conditioned upon the Bid being the Winning Bid (as defined below) for any of the other Assets included in the Bid (and, if so, which Assets); and (iii) state whether the Potential Bidder is willing to purchase any of the Assets included in the Bid individually, and if so, the price such Potential Bidder would pay for each such Asset.

Deposit.

Each Bid must be accompanied by a cash deposit in an amount equal to five percent (5%) of the aggregate value of the cash and non-cash consideration of such Bid (the “Deposit”), to be submitted by wire transfer to a segregated account to be identified and established by the Debtors.

Assumed Liabilities.

A Qualified Bid must clearly identify the payment of cure amounts and the liabilities to be irrevocably conveyed, transferred, and assigned to the Potential Bidder pursuant to the Transaction (collectively, the “Assumed Liabilities”).

Joint Bids.

The Debtors, in consultation with the Consultation Parties, will be authorized to approve joint Bids in their reasonable discretion on a case-by-case basis, so long as such joint Bid is otherwise compliant with the Bid Procedures. For the avoidance of doubt, all Bidders shall remain subject to the provisions of section 363(n) of the Bankruptcy Code regarding collusive bidding.

Executed Agreement.

Each Bid contemplating a Sale Transaction must be based on the PSA, or the Stalking Horse Agreement if one exists, and each Bid contemplating a Restructuring Transaction must be based on a Plan Term Sheet. Bids proposing a purchase of the Assets pursuant to a PSA must include a form of purchase and sale agreement indicating any modifications proposed by such Bidder to the form of PSA prepared by the Debtors or the Stalking Horse Agreement if one exists (the “Modified PSA”), including those changes related to purchase price. Bids proposing a Plan Term Sheet must outline in reasonable detail the terms and conditions of such Transaction and the treatment of various classes of creditor claims that complies with the applicable requirements of the Bankruptcy Code. In each case, such Modified PSA or Plan Term Sheet must be accompanied by a certification

signed by an authorized representative of such Bidder, pursuant to which the Bidder proposes to effectuate a Transaction agreeing to proceed to negotiate, document and close such Transaction if such Bid is determined by the Debtors, after consultation with the Consultation Parties, to be the highest or best Bid as provided below.

Contingencies.

Each Bid may not be conditioned on (i) obtaining financing, (ii) any internal approval, (iii) the outcome or review of due diligence (other than customary diligence relating to environmental and title matters), or (iv) regulatory contingences, except as provided under “Regulatory and Third-Party Approvals.”

Identity of Bidder.

Each Qualified Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Potential Bidder if such Potential Bidder is an entity formed for the purpose of consummating the proposed Transaction contemplated by such Bid, and the material terms of any such participation, including any written or oral agreements, arrangements, undertakings, contractual obligations or understandings concerning a collaborative or joint bid or any other combination concerning the proposed Bid), and the complete terms of any such participation, and must also disclose any connections or agreements with the Debtors, any other known Potential Bidder, Consultation Party, or Qualified Bidder, and/or any officer or director of the foregoing. Under no circumstances will any undisclosed principals, equity holders, or financial backers be associated with any Bid.

Expectation of Close.

A Bid must express an appropriate date by which the Bidder believes it could close the proposed Sale Transaction.

Financial Information.

A Bid must contain such financial and other information that allows the Debtors, in consultation with the Consultation Parties, to make a reasonable determination as to the Potential Bidder’s financial and other capabilities to consummate the applicable Transaction, including, without limitation:

- a. such financial and other information setting forth the Potential Bidder’s willingness to perform under any contracts that are assumed and assigned to such party;
- b. current financial statements or similar financial information certified to be true and correct as of the date thereof;
- c. proof of financing commitments (if needed) to close the applicable Transaction(s) (not subject to, in the Debtors’ sole discretion, any unreasonable conditions);

- d. contact information for verification of such information, including any financing sources; and
- e. any other information reasonably requested by the Debtors necessary to demonstrate that the Potential Bidder has the ability to close the applicable Sale Transaction(s) in a timely manner including, in the case of a Bid that is structured in the form of a Plan Term Sheet, such other evidence that may be reasonably requested by the Debtors demonstrating that such chapter 11 plan is feasible.

Authorization.

Each Bid must include evidence of corporate authorization with respect to the submission, execution, and delivery of the Bid, participation in the Auction, and closing the Sale Transaction(s) contemplated by the applicable Proposed Purchase Agreement.

Adequate Assurance of Future Performance.

- a. If applicable, a statement that the Potential Bidder has made or will make in a timely manner all necessary filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and pay any related fees.
- b. If applicable, explanation or evidence of the Potential Bidder's plan and ability to obtain all governmental and regulatory approvals to operate or own the applicable Assets, including, an explanation from the Potential Bidder's legal counsel to the Debtors' legal counsel of such Potential Bidder's regulatory analysis, strategy, and timeline for securing all such approvals as soon as reasonably practicable, and in no event later than the time period contemplated in the Proposed Purchase Agreement.
- c. Evidence that the Bid is reasonably likely (based on antitrust or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Winning Bid, within a time frame acceptable to the Debtors in consultation with the Consultation Parties.

Regulatory and Third Party Approvals.

Each Bid must include a description of all governmental, licensing, regulatory, or other approvals or consents that are required to consummate the proposed Transaction, together with evidence satisfactory to the Debtors, in consultation with the Consultation Parties, of the ability to obtain such consents or approvals in a timely manner, as well as a description of any material contingencies or other conditions that will be imposed upon, or that will otherwise apply to, obtaining any such consents or approvals.

Conditions to Closing.

Each Bid must identify with particularity each condition to closing.

No Collusion.

Each Potential Bidder shall represent in writing prior to submitting a Bid (including, but not limited to, a Bid at the Auction, which representation shall be confirmed in writing prior to the start of the Auction) that such Potential Bidder (i) has complied and intends to comply in all material respects with these Bidding Procedures and the conditions specified herein for being a Qualified Bidder, and (ii) has not and, until the conclusion of the bidding process, will not collude with any other Bidder or any other person or entity concerning a sale, plan of reorganization or other transaction concerning the Debtors' assets.

As-Is, Where-Is.

Each Bid must include a written acknowledgement and representation that the Potential Bidder (i) has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, (ii) has relied solely upon its own independent review, investigation, or inspection of any documents or the Assets in making its Bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction.

Other Requirements.

- a. A Potential Bidder must agree to serve as a Back-up Bidder if such bidder's Qualified Bid is selected as the second highest or otherwise best bid after the Winning Bid with respect to the relevant Assets.
- b. Each Bid must state that the Bidder consents to the jurisdiction of the Court.
- c. A Bid must be binding, unconditional, and irrevocable until the first business day following the close of any Sale Transaction(s) with the Winning Bidder(s) or, if applicable, the Back-up Bidder(s), for the applicable Assets.
- d. Unless the Potential Bidder has been selected as the Stalking Horse Bidder, a statement that the Bid does not entitle the Potential Bidder to any break-up fee, termination fee, expense reimbursement, or similar type of payment or reimbursement, and a waiver of any substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code related to the bidding process.
- e. Provide contact information of the specific person(s) whom the Debtors or their counsel should contact in the event that the Debtors have any questions or wish to discuss the Bid submitted by the Potential Bidder.
- f. Written evidence of available cash, a commitment for financing (not subject to any conditions other than those expressly set forth in the Proposed Purchase Agreement), and such other evidence of ability to consummate the transaction contemplated by the Proposed Purchase Agreement, the Bidding Procedures Order, and the Bidding Procedures, as acceptable in the Debtors' business judgment, in consultation with the Consultation Parties.

- g. Provide the identity of each entity that will be participating in connection with such Bid and taking ownership of the relevant Assets and a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed and to consummate the transaction contemplated by the Proposed Purchase Agreement.
- h. Each Bid must state that the Potential Bidder will bear its own costs and expenses (including legal fees) in connection with the proposed Transaction, and that by submitting the Bid, the Potential Bidder is agreeing to refrain from and waive any assertion or request for reimbursement on any basis, including under section 503(b) of the Bankruptcy Code; *provided* that the Debtors are authorized in their discretion to provide the Bid Protections to the Stalking Horse Bidder in accordance with these Bidding Procedures
- i. Covenant to cooperate with the Debtors to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements.

III. Information to be Provided to the Consultation Parties.

Promptly upon any party executing a Confidentiality Agreement, but in any event no later than two business days, the Debtors will notify counsel to the Consultation Parties of such occurrence.

Promptly upon receiving each Bid, but in no event later than two business days following the Bid Deadline, the Debtors will provide a copy of each Bid to the Consultation Parties, *provided* that any confidential information shall only be shared with the Consultation Parties on a professional-eyes'-only basis.

IV. Designation of Qualified Bidders.

Qualified Bidder.

The Debtors, in consultation with the Consultation Parties, will evaluate all Bids that are timely submitted and may engage in negotiations with Potential Bidders who submitted Bids as the Debtors deem appropriate, in the exercise of their business judgment, based upon the Debtors' evaluation of each Bid.

The Debtors will determine, in their reasonable business judgment and in consultation with the Consultation Parties, which of the Bids received by the Bid Deadline qualify as Qualified Bids (each Potential Bidder that submits such a Qualified Bid being a "Qualified Bidder") and will notify each Qualified Bidder of its status as a Qualified Bidder by no later than July 22, 2025, at 5:00 p.m. (prevailing Central Time). Counsel to the Debtors will provide copies of the Bids received, to counsel to the Consultation Parties upon their receipt of such Bids.

Without the written consent of the Debtors, which may be provided only after consultation with the Consultation Parties, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase the Purchase Price or otherwise improve the terms of its Qualified Bid during the period that such Qualified Bid remains binding as specified herein; *provided*, that any Qualified Bid may be improved at the Auction as set forth in these Bidding Procedures. The Debtors reserve the right to work with any Potential Bidder, in consultation with the Consultation Parties, in advance of the Auction to cure any deficiencies in a Bid that is not initially deemed a Qualified Bid and to clarify or otherwise improve such Bid such that it may be designated a Qualified Bid. For the avoidance of doubt, and notwithstanding anything herein, the Stalking Horse Bidder (who must comply with the Qualified Bid Conditions, unless the Stalking Horse Bidder is the DIP Agent or the Prepetition Agent) will be deemed to be a Qualified Bidder and any Stalking Horse Agreement will be deemed a Qualified Bid, which qualifies such Stalking Horse Bidder to participate in the Auction (if any). In addition, as set forth below, and notwithstanding anything to the contrary provided herein, any Bid submitted by the DIP Agent and/or the Prepetition Agent will automatically be deemed a Qualifying Bid and the DIP Agent and the Prepetition Agent are automatically deemed Qualified Bidders.

In evaluating the Bids, the Debtors may, in consultation with the Consultation Parties, take into consideration the following non-binding and non-exclusive factors:

- a. the assets and liabilities included in or excluded from the Bid, including any executory contracts or unexpired leases proposed to be assumed;
- b. the value to be provided to the Debtors under the Bid, including the net economic effect upon the Debtors' estates;
- c. any benefit to the Debtors' estates from any assumption or waiver of liabilities;
- d. the transaction structure and execution risk, including conditions to, timing of, and certainty of closing, termination provisions, availability of financing, financial wherewithal to meet all commitments, and required governmental or other approvals;
- e. the structure, confirmability and feasibility of a Plan Term Sheet's proposed chapter 11 plan including the time and costs necessary to negotiate, document and confirm the proposed chapter 11 plan;
- f. the executory contracts and unexpired leases of the Debtors, if any, for which assumption and assignment or rejection is required, and the costs and delay associated with any litigation concerning executory contracts and unexpired leases necessitated by such Qualified Bid, as well as any excluded Assets;
- g. the likelihood of the Qualified Bidder being able to close the proposed transaction (including, without limitation, obtaining any required regulatory, third party, contractual or other consents, obligations or approvals, the satisfaction of any conditions to closing, and the credit-worthiness of the Bidder) and the timing thereof;

- h. the tax consequences to the Debtors and their various constituents of the Qualified Bid;
- i. the impact on employees; and
- j. any other factors the Debtors may reasonably deem relevant, consistent with their fiduciary duties

V. Bid Selection and Criterion.

Baseline Bid.

Bidding for the Assets will start with the highest or otherwise best Purchase Price and/or terms received as determined by the Debtor, in consultation with the Consultation Parties.

Credit Bids.

Any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors' estates and the right under applicable non-bankruptcy law to credit bid claims secured by such liens shall have the right to credit bid any portion and up to the entire amount of their outstanding secured claims pursuant to section 363(k) of the Bankruptcy Code, *provided* that any credit bid by or on behalf of any party other than the DIP Agent or the Prepetition Agent, shall contain a cash component sufficient to pay the principal amount outstanding plus accrued but unpaid interest and fees under the Debtors' debtor-in-possession financing facility.

For purposes of evaluating competing bids, every dollar of a credit bid shall be treated the same as a dollar from a cash bid, and a credit bid shall not be considered inferior to a comparable cash bid because it is a credit bid. The fact that a Bid is composed of a credit bid (whether in whole or in part) shall not be a factor considered by the Debtors in their determination of the highest or otherwise best Bid for such asset.

For the avoidance of doubt, the DIP Agent and the Prepetition Agent, in each case, are permitted to credit bid on a dollar-for-dollar basis any or all of the full amount of the respective outstanding DIP Obligations (including all Second Out DIP Term Loans) and Prepetition Obligations up to the full amount of the DIP Obligations and the Prepetition Obligations, respectively, including any accrued interest, expenses, and fees, in accordance with section 363(k) of the Bankruptcy Code. The DIP Agent and the Prepetition Agent, in each case, shall each have the absolute right to assign, transfer, sell, or otherwise dispose of their respective rights to credit bid to any acquisition vehicle formed in connection with such bid or other designee.

Notwithstanding anything to the contrary provided herein, the DIP Agent and the Prepetition Agent are deemed to be Qualified Bidders for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Qualified Bidder must satisfy to be a Qualified Bidder, and any Bid submitted by the DIP Agent and/or the Prepetition Agent will be deemed to be a Qualified Bid, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Bid must satisfy to be a Qualified Bid, including the requirement, among others, that each Bid must be accompanied by a Deposit.

VI. Auction Procedures.

If the Debtors receive more than one (1) Qualified Bid with respect to any of the Assets, the Debtors will conduct the Auction on August 5, 2025, beginning at 9:00 a.m. (prevailing Central Time), or such other date as may be determined by the Debtors in consultation with the Consultation Parties either (i) at the offices of proposed counsel to the Debtors, Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, or (ii) virtually, in each case pursuant to procedures to be timely filed on the Court's docket in advance of the commencement of the Auction. The Auction will be conducted openly and will be transcribed or recorded. Only Qualified Bidders and their professionals will be eligible to attend and participate in the Auction. Professionals and/or other representatives of the Debtors and of any of the Consultation Parties will be permitted to attend and observe the Auction. If only one Qualified Bid is received with respect to all or a portion of the Assets, the Debtors may, in consultation with the Consultation Parties, designate such Qualified Bid as a Winning Bid.

Each Qualified Bidder will be required to confirm, both before and after the Auction, that it has not engaged in any collusion with respect to the submission of any Bid, the bidding, or the Auction, and its Qualified Bid is a good-faith *bona fide* offer and it intends to consummate the proposed Transaction if selected as a Winning Bidder.

At the Auction, bidding for the Assets will start with the highest or otherwise best purchase price and/or terms received as determined by the Debtors, in consultation with the Consultation Parties, and will proceed thereafter in minimum bid increments of not less than (i) \$500,000 plus (ii) with respect to bids from parties other than the Stalking Horse Bidder, the amount of the Bid Protections payable to the Stalking Horse Bidder, if applicable (a "Minimum Overbid Amount"). The Debtors reserve the right, in consultation with the Consultation Parties, to adapt and may increase or decrease the Minimum Overbid Amount at any time during the Auction, in consultation with the Consultation Parties. Qualified Bidders may increase their bids at the Auction, including with cash, cash equivalents, or other forms of consideration. Except as modified in the Bidding Procedures, an overbid at the Auction must comply with the conditions for a Qualified Bid set forth above, *provided, however*, that the Bid Deadline shall not apply. For the avoidance of doubt, any overbid shall be irrevocable and shall remain open and binding on the Bidder in accordance with these Bidding Procedures and the conditions for a Qualified Bidder.

At the Debtors' discretion, to the extent not previously provided (which shall be determined by the Debtors in consultation with the Consultation Parties), a Bidder submitting an overbid at the Auction must submit, as part of its overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors, in consultation with the Consultation Parties, and consistent with Qualified Bid requirements above), as the Debtors, at their discretion, may request, demonstrating such Bidder's ability to consummate the Transaction proposed by such overbid.

The Debtors may, in the exercise of their business judgment, and in consultation with the Consultation Parties, adopt rules for the Auction consistent with these Bidding Procedures and the Bidding Procedures Order that the Debtors, in consultation with the Consultation Parties, reasonably determine to be appropriate to promote a competitive auction. Any rules developed by the Debtors, in consultation with the Consultation Parties, will provide that all bids at the Auction

will be made and received on an open basis, and all Qualified Bidders participating in the Auction will be entitled to be present for all bidding with the understanding that the true identity of each bidder placing a bid at the Auction will be fully disclosed to all other bidders participating in the Auction and that all material terms of each Qualified Bid submitted in response to any successive bids made at the Auction will be disclosed to all other bidders. Each Qualified Bidder will be permitted what the Debtors reasonably determine to be an appropriate amount of time to respond to the previous bid at the Auction. The Auction will be conducted openly and will be transcribed or recorded.

The Debtors reserve the right, at their reasonable discretion and in consultation with the Consultation Parties, to make one or more continuances of the Auction to, among other things: facilitate discussions between the Debtors and individual Qualified Bidders; allow individual Qualified Bidders to consider how they wish to proceed; and give Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, at their discretion, may require that the Qualified Bidder 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.

The Debtors may, in the exercise of their business judgment and upon consultation with the Consultation Parties, identify the highest or otherwise best Qualified Bid(s) as the winning bid(s) (each a “Winning Bid” and, the bidder(s) submitting such Bid(s), each a “Winning Bidder”). The Debtors, in consultation with the Consultation Parties, may identify which Qualified Bid(s) constitute the second highest or otherwise best Qualified Bid(s) and deem such second or otherwise best Bid(s) as back-up bid(s) (each a “Back-up Bid,” and the bidder(s) submitting such Bid(s), each a “Back-up Bidder”). Back-up Bid(s) will remain open and irrevocable until the earliest to occur of: (i) the applicable “outside date” for consummation of the Sale Transaction(s) contemplated by the Back-up Bid(s); (ii) consummation of the Sale Transaction(s) with a Winning Bidder; and (iii) release of such Back-up Bid(s) by the Debtors in writing (such date, the “Back-up Bid Expiration Date”). If a Sale Transaction with a Winning Bidder is terminated prior to the applicable Back-up Bid Expiration Date, the applicable Back-up Bidder with respect to the applicable Asset(s) will be deemed the Winning Bidder for such asset(s) and will be obligated to consummate the Back-up Bid as if it were the Winning Bid for such asset(s). In such case of a breach or failure to perform on the part of the Winning Bidder and in such other circumstances as may be specified in the definitive documentation governing the Winning Bid, the defaulting Winning Bidder’s deposit shall be forfeited to the Debtors. The Debtors specifically reserve the right to seek all available damages, including specific performance, from any defaulting Winning Bidder (including any Back-up Bidder designated as a Winning Bidder) in accordance with the terms of the Bidding Procedures.

Neither the Debtors nor the Court shall be required to consider any Bids submitted after the conclusion of the Auction, and any and all such bids shall be deemed untimely. The Winning Bidder(s) shall be required to keep the Winning Bid(s) open and irrevocable until the closing of the transactions contemplated thereby.

Within two (2) business days after the Auction, (i) the Winning Bidder(s) will submit to the Debtors fully executed documentation memorializing the terms of the Winning Bid(s) and (ii) the Back-up Bidder(s) will submit to the Debtors execution versions of the documentation

memorializing the terms of the Back-up Bid(s). Neither a Winning Bid nor a Back-up Bid may be assigned to any party without the consent of the Debtors, in consultation with the Consultation Parties.

At any time before entry of an order approving any Sale Transaction, the Debtors reserve the right to and may reject the applicable Qualified Bid if such Qualified Bid, in the Debtors' judgment (and in consultation with the Consultation Parties), 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 applicable Sale Transaction; or (iii) contrary to the best interests of the Debtors and their estates

Selection of Winning Bid(s) and Back-up Bid(s).

No later than two (2) business days following the selection of one or more Winning Bidder(s), the Debtors will file with the Court and post on the website of the Debtors' claims and noticing agent a notice of the Winning Bid(s), Winning Bidder(s), Back-up Bid(s), and Back-up Bidder(s), as applicable. The Debtors will not consider any bids submitted after the conclusion of the Auction unless they determine in good faith, in consultation with the Consultation Parties, that their fiduciary duties require otherwise.

Return of Deposits/Payment of Bid Protections.

The Deposits of all Qualified Bidders shall be held in one or more accounts by the Debtors, but shall not become property of the Debtors' estates; provided, however, that the Deposit of any Winning Bidder (including any Back-up Bidder that becomes a Winning Bidder) shall be forfeited to the Debtors if the Winning Bidder fails to consummate the Winning Bid by no later than ten (10) days following entry of the Sale Order for any reason other than the Debtors' material breach. The good faith deposit of any Qualified Bidder that is neither the Winning Bidder nor the Back-up Bidder shall be returned to such Qualified Bidder not later than seven (7) days after the conclusion of the Auction. The Deposit of the Back-up Bidder, if any, shall be returned to the Back-up Bidder not later than three (3) business days after (i) the closing of the Transaction with the Winning Bidder for the Assets bid upon by the Back-up Bidder and (ii) the Back-up Bid Expiration Date; provided, however, that if the Back-up Bid becomes the Winning Bid as provided herein, any subsequent breach or failure to perform by the Back-up Bidder may result in the forfeit of the Deposit of the Back-up Bidder to the Debtors. Upon the return of the Deposits, their respective owners shall receive any and all interest that may have accrued thereon. No later than one day prior to the Sale Hearing, the Winning Bidder(s) shall submit by transfer of immediately available funds to an account identified by the Debtors the amount required to increase the Winning Bidder(s)' good faith deposit to (i) five percent (5%) of the purchase price contained in the Winning Bid(s) in the case of a Sale Transaction, (ii) twenty-five percent (25%) of the cash consideration if the Winning Bid is a Restructuring Transaction, or (iii) such other amount as the Debtors determine, in consultation with the Consultation Parties,. The Bid Protections payable to the Stalking Horse Bidder shall be paid not later than three (3) business days after the closing of the transaction with the Winning Bidder for the Assets bid upon by the Stalking Horse Bidder from the proceeds of such transaction.

Consultation Parties.

The term “Consultation Parties” as used in these Bidding Procedures will mean the DIP Agent and Prepetition Agent solely to the extent such party is not submitting a Qualified Bid and their professional advisors, and any Committee; *provided*, however, that to the extent any Consultation Party submits a Bid for any assets (including a credit bid), such party shall not be a Consultation Party with respect to the evaluation and qualification of competing Bids for the assets included in the Bid or with respect to seeking and/or obtaining information about other Bids, but shall remain a Consultation Party for other purposes set forth in these Bidding Procedures; provided further, notwithstanding anything herein to the contrary, the Debtors will be required to reasonably consult with any Consultation Party, and any such Consultation Party will not have any consent rights with respect to these Bidding Procedures, except as otherwise provided herein. The Debtors will regularly and timely consult and confer with the Consultation Parties in respect of all aspects of the bidding and Auction process in order to maximize value for all parties in interest.

Until an insider of the Debtors confirms in writing that it does not intend to submit or participate in a Bid (the “Written Confirmation”), such insider and any person associated with such insider shall not be a Consultation Party and shall be expressly prohibited from participating in any manner in the evaluation of Qualified Bids and the Auction (other than in his or her capacity as a Qualified Bidder). Additionally, the Debtors shall inform the Consultation Parties reasonably prior to designating any such insider as a Potential Bidder or Qualified Bidder. So long as such insiders have not delivered a Written Confirmation, the Debtors shall establish reasonable procedures to prevent such insiders and their employees from being privy to confidential information concerning the Bids of other potential Bidders, and, as set forth below, to permit such proposals to be reviewed and negotiated under the direction of representatives of the Boards (as defined below) that are independent of such insiders.

Sale Hearing.

The Debtors will seek entry of an order authorizing and approving, among other things, the applicable Sale Transaction(s) at a hearing before the Court to be held no later than August 14, 2025 at [●] (prevailing Central Time) (the “Sale Hearing”). The Sale Hearing may be adjourned or continued to a later date by the Debtors, in consultation with the Consultation Parties, by sending notice prior to or making an announcement at the Sale Hearing. No further notice of any such adjournment or continuance will be required to be provided to any party.

The Debtors may, in consultation with the Consultation Parties, elect to seek approval of a Sale Transaction in advance of the Sale Hearing. To the extent the Debtors determine to do so, notice will be provided for alternative hearing dates and related timelines.

Each Winning Bidder shall appear at the Sale Hearing and be prepared to have a representative testify in support of its Winning Bid and the Winning Bidder’s ability to close in a timely manner and provide adequate assurance of its future performance under all executory contracts and unexpired leases to be assumed and assigned as part of the applicable Sale Transaction.

Fiduciary Out.

Notwithstanding anything to the contrary in these Bidding Procedures, nothing in these Bidding Procedures or the Bidding Procedures Order shall require a Debtor or the board of directors, board of managers, or similar governing body of a Debtor, to take any action or to refrain from taking any action to the extent taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under applicable law.

Transaction is “As Is/Where Is”.

Any of the Assets sold pursuant to the Bidding Procedures or otherwise transferred or vesting in a reorganized Debtor under a confirmed Plan shall be sold free and clear of all liens, claims and encumbrances as permitted by Bankruptcy Code section 363(f) or such other applicable provision of the Bankruptcy Code other than any Assumed Liabilities and conveyed at Closing in their then-present condition, **“AS IS, WHERE IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED”**, except to the extent set forth in the definitive agreement for the Winning Bid, if applicable.

Consent to Authority as a Condition to Bidding.

All Potential Bidders that participate in the bidding process will be deemed to have (i) consented to the core jurisdiction of the Court with respect to these Bidding Procedures, the bid process, the Auction, any Sale Transaction, the Sale Hearing, or the construction and enforcement of any agreement or any other document relating to a Sale Transaction; (ii) waived any right to a jury trial in connection with any disputes relating to any of the foregoing; and (iii) consented to the entry of a final order or judgment in any way related to any of the foregoing if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the parties.

Fiduciary Duties.

For the avoidance of doubt, nothing in the Bidding Procedures, including, without limitation, the auction procedures, prevents the Debtors from exercising their respective fiduciary duties under applicable law (as reasonably determined in good faith by the Debtors in consultation with their outside legal counsel).

Consent to Jurisdiction.

All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to the Auction or the construction and enforcement of these Bidding Procedures.

Reservation of Rights.

The Debtors reserve the right to, in their reasonable business judgment in order to facilitate a value-maximizing sale of the Assets, and in consultation with the Consultation Parties, in a manner consistent with their fiduciary duties and applicable law: (i) modify these Bidding Procedures; (ii) waive terms and conditions set forth herein with respect to all Potential Bidders;

(iii) extend the deadlines set forth herein; and (iv) announce at the Auction the modified or additional procedures for conducting the Auction; provided without the prior written consent of the DIP Agent and the Prepetition Agent, the Debtors shall not adopt new rules, procedures, or deadlines or otherwise modify these Bidding Procedures or the Bidding Procedures Order in a manner that alters or limits the rights of, or imposes additional burdens on, the DIP Agent, the DIP Lenders, the Prepetition Agent and/or the Prepetition Lenders, including by (x) requiring the DIP Agent and/or the Prepetition Agent to include a deposit as part of a Credit Bid or (y) removing, limiting, or imposing additional conditions on, the rights of such parties to Credit Bid and/or to be deemed a Qualified Bidder (and their Bids deemed Qualified Bids). If a Consultation Party or the U.S. Trustee determines in good faith that any modification to these Bidding Procedures or the Bidding Procedures Order, or any adoption of new rules procedures or deadlines, would not be consistent with this paragraph or these Bidding Procedures or the Bidding Procedures Order, such Consultation Party or U.S. Trustee may file an objection with the Court, and no such modification or adoption shall become effective until such objection is resolved. Nothing in these Bidding Procedures will obligate the Debtors to consummate or pursue any transaction with respect to any Asset with a Qualified Bidder.

EXHIBIT 2

SALE NOTICE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

MOSAIC SUSTAINABLE FINANCE
CORPORATION, *et. al.*,¹

Debtors.

Chapter 11

Case No. 25-90156 (CML)

(Joint Administration Requested)

NOTICE OF SALE, BIDDING PROCEDURES, AUCTION, AND SALE HEARING

PLEASE TAKE NOTICE that, on June 6, 2025, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Motion for Entry of Orders Approving (I)(A) Bidding Procedures For the Sale of Substantially All or a Portion of the Debtors’ Assets, (B) Certain Bid Protections in Connection With A Stalking Horse Agreement, If Any, (C) Procedures for the Debtors’ Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) the Form and Manner of Notice of Sale, Auction, Assumption and Assignment Procedures and Sale Hearing, and (E) Dates for an Auction and Sale Hearing, and (II)(a) Sale Of Substantially All or Any Portion of Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, and (B) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. [●]] (the “Bidding Procedures Motion”).

PLEASE TAKE FURTHER NOTICE that, on [●], 2025, the United States Bankruptcy Court for the Southern District of Texas (the “Court”) entered that certain order [Docket No. [●]] (the “Bidding Procedures Order”)² approving, among other things, (i) bidding procedures (the “Bidding Procedures”) by which the Debtors will solicit and select the highest or otherwise best offer for the sale of substantially all or a portion of their assets (the “Assets”) through one or more sales of the Assets (each, a “Sale Transaction”) or through a plan of reorganization term sheet; (ii) approving the Bid Protections; (iii) establishing procedures for the assumption and assignment of executory contracts and unexpired leases, including notice of proposed cure amounts (the “Assumption and Assignment Procedures”); (iv) approving the form and manner of the Sale Notice and the Assumption and Assignment Notice; (v) scheduling (a) a date for an auction if the Debtors receive one or more timely and acceptable Qualified Bids (the “Auction”) and (b) a final hearing to approve one or more Sale Transactions, as necessary (the “Sale Hearing”); and (vi) granting

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Mosaic Sustainable Finance Corporation (6802); Solar Mosaic LLC (3655); Modern Home LLC (4998); Mosaic Funding Holdings LLC (0866); and SMCTX LLC (6303). The service address for each of the above Debtors is 601 12th Street, Suite 325, Oakland, California 94607.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Bidding Procedures Order.

related relief. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.

PLEASE TAKE FURTHER NOTICE that, to ensure that the Auction and Transaction process maximizes value for the benefit of the Debtors' estates, the following key dates and deadlines have been established by the Debtors, pursuant to the Bidding Procedures Order:

- (a) Bid Deadline. Any person or entity interested in bidding on any of the Assets must submit a Qualified Bid on or before July 21, 2025 at 5:00 p.m. (prevailing Central Time) (the "Bid Deadline").
- (b) Auction. If the Debtors receive more than one Qualified Bid for any of the Assets, the Debtors will conduct the Auction, which has been scheduled for August 5, 2025 at 9:00 a.m. (prevailing Central Time) either (i) at the offices of proposed counsel to the Debtors, Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, or (ii) virtually, pursuant to procedures to be timely filed on the Court's docket in advance of the commencement of the Auction, or at such later date and time and such other location as selected by the Debtors in accordance with the Bidding Procedures.
- (c) Sale Objection Deadline. Objections to the Sale Transaction(s) (a "Sale Objection"), must be (i) filed with the Court in accordance with the Bidding Procedures and (ii) served on the Objection Notice Parties (as defined herein) on or before August 1, 2025 at 5:00 p.m. (prevailing Central Time) (the "Sale Objection Deadline"); *provided that*, notwithstanding the foregoing, Post-Auction Objections shall be filed no later than the Post-Auction Objection Deadline (as defined below).
- (d) Post-Auction Objection Deadline. Following service of the Post-Auction Notice, parties with requisite standing may object to (i) the manner in which the Auction was conducted or the designation or court-approval of the Winning Bid(s) or Back-up Bid(s) or (ii) contract-counterparty Adequate Assurance Objections (each such objection, a "Post-Auction Objection"). Objections to the Sale to the Stalking Horse Bidder shall be filed and served so as to be actually received by no later than the Sale Objection Deadline. Any Post-Auction Objection shall be (a) in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (b) be filed with the Court, and (c) served on the Objection Notice Parties (as defined in the Bidding Procedures) by no later than August 6, 2025, at 5:00 p.m. (prevailing Central Time) (the "Post-Auction Objection Deadline").
- (e) Sale Hearing. A hearing to approve and authorize the sale of any of the Assets to one or more Winning Bidders will be held before the Court on or before August 14, 2025 (prevailing Central Time) or such other date as determined by the Court.

PLEASE TAKE FURTHER NOTICE that the Objection Recipients are: (i) the Debtors; (ii) proposed counsel to the Debtors, (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas,

(b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson; (iii) counsel to the DIP Agent, Jefferies LLC, 520 Madison Avenue, New York, New York 10022, Attn: Richard W. Morgner; (v) counsel to any statutory committee appointed in these cases; and (vi) any parties entitled to notice pursuant to Bankruptcy Rule 2002 (collectively, the “Objection Recipients”).

PLEASE TAKE FURTHER NOTICE that this Notice is subject to the terms and conditions of the Motion and the Bidding Procedures Order, with the Bidding Procedures Order controlling in the event of any conflict. The Debtors encourage parties in interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of the Assets and/or copies of any related document, including the Motion or the Bidding Procedures Order, may make a written request to proposed counsel to the Debtors, Paul Hastings LLP, Attn: (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson. In addition, copies of the Motion, the Bidding Procedures Order, and this Notice may be examined by interested parties free of charge at the website established for these chapter 11 cases by the Debtors’ court-approved claims and noticing agent, Kroll LLC, at <https://cases.ra.kroll.com/Mosaic/>.

FAILURE TO ABIDE BY THE BIDDING PROCEDURES, THE BIDDING PROCEDURES ORDER, OR ANY OTHER ORDER OF THE COURT IN THESE CHAPTER 11 CASES MAY RESULT IN THE REJECTION OF YOUR BID.

FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER BY THE SALE OBJECTION DEADLINE WILL FOREVER BAR SUCH PERSON OR ENTITY FROM ASSERTING ANY OBJECTION TO THE MOTION, THE ORDER APPROVING THE SALE TRANSACTION, THE PROPOSED SALE TRANSACTION, OR ANY OTHER AGREEMENT EXECUTED BY THE DEBTORS AND A WINNING BIDDER AT THE AUCTION.

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Dated: June [•], 2025
Houston, Texas

/s/

PAUL HASTINGS LLP

Charles Persons (TX Bar No. 24060413)
Schlea Thomas (TX Bar No. 24131710)
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-and-

Matthew M. Murphy (*pro hac vice* admission pending)
Geoffrey M. King (*pro hac vice* admission pending)
Michael Jones (*pro hac vice* admission pending)
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*Proposed Counsel to the Debtors and Debtors in
Possession*

EXHIBIT I

BIDDING PROCEDURES ORDER

EXHIBIT II

BIDDING PROCEDURES

EXHIBIT 3

ASSUMPTION AND ASSIGNMENT NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	
	)	Chapter 11
	)	
MOSAIC SUSTAINABLE FINANCE	)	Case No. 25-90156 (CML)
CORPORATION, <i>et. al.</i> , ¹	)	
	)	
Debtors.	)	(Joint Administration Requested)
	)	

NOTICE OF (I) ASSUMPTION AND
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND
LEASES AND (II) THE PROPOSED CURE COSTS WITH RESPECT THERETO

You are receiving this notice (the “Assumption and Assignment Notice”) because you may be a counterparty to a contract or lease with the above-captioned debtors and debtors in possession. Please read this notice carefully as your rights may be affected by the potential transactions described herein.

PLEASE TAKE NOTICE OF THE FOLLOWING:

On June 6, 2025, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Motion for Entry of Orders Approving (I)(A) Bidding Procedures For the Sale of Substantially All or a Portion of the Debtors’ Assets, (B) Certain Bid Protections in Connection With A Stalking Horse Agreement, If Any, (C) Procedures for the Debtors’ Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) the Form and Manner of Notice of Sale, Auction, Assumption and Assignment Procedures and Sale Hearing, and (E) Dates for an Auction and Sale Hearing, and (II)(a) Sale Of Substantially All or Any Portion of Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, and (B) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. [●]] (the “Bidding Procedures Motion”).²

On [●], 2025, the United States Bankruptcy Court for the Southern District of Texas (the “Court”) entered that certain order [Docket No. [●]] (the “Bidding Procedures Order”) approving, among other things, the Bidding Procedures, which establish the key dates and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Mosaic Sustainable Finance Corporation (6802); Solar Mosaic LLC (3655); Modern Home LLC (4998); Mosaic Funding Holdings LLC (0866); and SMCTX LLC (6303). The service address for each of the above Debtors is 601 12th Street, Suite 325, Oakland, California 94607.

² All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the Bidding Procedures Order (defined herein), as applicable.

times related the sale of the Debtors' assets (collectively, the "Assets"), and the Assumption and Assignment Procedures to facilitate the fair and orderly assumption or assumption and assignment of certain executory contracts or unexpired leases of the Debtors.

Pursuant to the Bidding Procedures Order, the Debtors hereby provide notice (this "Assumption and Assignment Notice") that they may seek to assume and assign to a Winning Bidder the contracts or leases listed on Exhibit A attached hereto (each, a "Designated Contract").

If the Debtors assume and assign to a Winning Bidder a Designated Contract to which you are a party, on the closing date of the Sale Transaction, or as soon thereafter as practicable, you will be paid the amount the Debtors' records reflect is owing for pre-bankruptcy filing arrearages as set forth on Exhibit I (the "Cure Cost"). The Debtors' records reflect that all postpetition amounts owing under your Designated Contract have been or will be paid and will continue to be paid in the ordinary course until the assumption and assignment of the Designated Contract, and that other than the Cure Cost, there are no other defaults under the Designated Contract.

The Debtors' inclusion of a Designated Contract on Exhibit I does not: (i) obligate the Debtors to assume any Designated Contract listed thereon or obligate a Winning Bidder to take assignment of such Designated Contract; or (ii) constitute any admission or agreement of the Debtors that such Designated Contract is an executory contract or unexpired lease or that the Debtors have any liability thereunder, and the Debtors expressly reserve all of their rights, claims, causes of action, and defenses with respect to the Designated Contracts listed on Exhibit I. Only those Designated Contract that are included on a schedule of assumed and Designated Contracts attached to the definitive sale agreement with any Winning Bidder (including amendments or modifications to such schedules in accordance with such agreement) will be assumed and assigned to the Winning Bidder.

Notwithstanding anything to the contrary herein, the proposed assumption and assignment of each of the Designated Contract listed on Exhibit I hereto will be subject to the Debtors' or any Winning Bidder(s)'s right to conduct further confirmatory diligence with respect to the Cure Cost of each Designated Contract and to modify such Cure Cost accordingly. In the event that the Debtors or any Winning Bidder(s) determine that your Cure Cost should be modified, you will receive a notice pursuant to the Assumption and Assignment Procedures below, which will provide for additional time for you to object to such modification

I. Assumption and Assignment Procedures

These Assumption and Assignment Procedures set forth below regarding the assumption and assignment of the Designated Contract proposed to be assumed by the Debtors and assigned to the Winning Bidder(s) in connection with one or more Sale Transactions will govern the assumption and assignment of all of the Designated Contracts, subject to the payment of any Cure Costs:

Assumption and Assignment Objections. Any objections to the proposed assumption and assignment of any Designated Contracts on any grounds (other than an Adequate Assurance Objection (as defined below)), including without limitation, the amount of the proposed Cure Costs, (each, a “Contract Objection”), must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any order governing the administration of these Chapter 11 Cases; (iii) state with specificity the nature of the objection, including, if applicable, the cure amount alleged to be owed to the objecting Contract Counterparty, together with any applicable and appropriate documentation in support thereof; (iv) be filed with the Court no later than the date that is 14 calendar days after service of the applicable Assumption and Assignment Notice (the “Contract Objection Deadline”); and (v) be served on the Objection Notice Parties (as defined below).

Adequate Assurance Objections. Any objections to the ability of the Winning Bidder or Backup Bidder (as applicable) to provide adequate assurance of future performance (each, an “Adequate Assurance Objection” and, together with the Contract Objections, an “Assumption and Assignment Objection”) must be filed with the Court no later than the Post-Auction Objection Deadline; *provided* that if you are receiving this notice less than seven (7) days prior to the Sale Hearing, your deadline to file an Adequate Assurance Objection shall be the date that is seven (7) days after the date hereof. In the event that such supplemental or revised Assumption and Assignment Notice was filed and served less than seven (7) days prior to the commencement of the Sale Hearing and an objection is filed that is not otherwise consensually resolved, then such objection will not be adjudicated at the Sale Hearing and will be set for a subsequent hearing. The identity of the Winning Bidder and Backup Bidder (if any) shall be disclosed in a subsequent notice to be delivered to counterparties to the applicable Designated Contracts following the Auction.

If the counterparty to a Designated Contract does not timely file and serve a Contract Objection that is consistent with the requirements set forth above by the Contract Objection Deadline (with respect to all objections other than Adequate Assurance Objections) or the Post-Auction Objection Deadline (with respect to Adequate Assurance Objections only), such counterparty will be deemed to have consented to the assumption and assignment of the Designated Contract to a Winning Bidder, notwithstanding any anti-alienation provision or other restriction on assumption or assignment in the Designated Contract, and shall be forever barred from asserting any objection with regard to such assumption and assignment and/or Cure Costs set forth in Exhibit 1.

Objection Notice Parties. Each Assumption and Assignment Objection must be filed with the Court and served on the following parties (the “Objection Notice Parties”) so as to be received no later than the Assumption and Assignment Objection Deadline: (i) proposed counsel to the Debtors, (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson; (ii) the Office of the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002; (iii) counsel for the official committee of unsecured creditors (if any) appointed in these Chapter 11 Cases; and (iv) those persons who have formally appeared in these Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002.

Resolution of Assumption and Assignment Objections. If a Contract Counterparty timely files an Assumption and Assignment Objection and the Winning Bidder has designated that it wishes to take assignment of such contract or lease, and the parties are unable to consensually resolve the dispute prior to the Sale Hearing, then such Assumption and Assignment Objection will be resolved at the Sale Hearing, but such contract or lease shall be assumed and assigned only upon satisfactory resolution of the Assumption and Assignment Objection, to be determined in the Winning Bidder's discretion. If an Assumption and Assignment Objection is not satisfactorily resolved, the Winning Bidder may determine that such contract or lease should not be assigned in connection with the Winning Bidders' Sale Transaction(s), in which case the Winning Bidder will not be responsible for any Cure Costs or Adequate Assurance, as applicable, with respect to such executory contract or unexpired lease, *provided, however*, that if the Contract Objection relates solely to a dispute with respect to the cure amount required to be paid to the applicable Counterparty under Bankruptcy Code sections 365(b)(1)(A) and (B) (any such dispute, a "Cure Dispute"), the Selected Designated Contract may be assumed by the Debtors and assigned to the Winning Bidder, provided that the cure amount the Counterparty asserts is required to be paid under Bankruptcy Code section 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Counterparty) is deposited in a segregated account by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution of the Cure Dispute provided that the cure amount the Counterparty asserts is required to be paid under Bankruptcy Code section 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Counterparty) is deposited in a segregated account by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution of the Cure Dispute.

Modification of Designated Contracts Schedule. At any time prior to the closing of any Sale Transaction, the Debtors may (i) supplement the Designated Contracts Schedule with executory contracts or unexpired leases inadvertently omitted therefrom; (ii) remove or add any Designated Contracts from or to the list of executory contracts and unexpired leases ultimately selected as Designated Contracts that the Winning Bidder(s) proposes be assumed and assigned to it in connection with the Sale Transaction(s); and/or (iii) modify the proposed Cure Costs.

Supplemental Assumption and Assignment Notice. In the event that the Debtors exercise any of the rights reserved above, the Debtors will promptly file with the Court, cause to be published on the Case Website, and serve on each relevant Contract Counterparty a supplemental notice of assumption and assignment (the "Supplemental Assumption and Assignment Notice"). Each Supplemental Assumption and Assignment Notice will include the same information as would have been included in this notice.

Supplemental Assumption and Assignment Objections. A Contract Counterparty listed on a Supplemental Assumption and Assignment Notice may file an objection (a "Supplemental Contract Objection") on the same bases set forth above. All Supplemental Contract Objections must comply with the requirements set forth above, and be filed with the Court and served on the Objection Notice Parties no later than the date that is the later of (i) the Contract Objection Deadline in the event that the Supplemental Assumption and Assignment Notice was filed and served at least ten (10) days prior to the Contract Objection Deadline, (ii) two (2) days prior to the Sale Hearing in the event that the Supplemental Assumption and Assignment Notice was filed and served at least seven (7) day prior to the commencement of the Sale Hearing, and (iii) seven (7) days after the date of filing and service of the Supplemental Assumption and Assignment Notice

in the event that the Supplemental Assumption and Assignment Notice was filed and served less than seven (7) days prior to the commencement of the Sale Hearing. In the event that such Supplemental Assumption and Assignment Notice was filed and served less than seven (7) days prior to the commencement of the Sale Hearing and an objection is filed that is not otherwise consensually resolved, then such objection will not be adjudicated at the Sale Hearing and will be set for a subsequent hearing

Resolution of Supplemental Assumption and Assignment Objections. If a Contract Counterparty timely files a Supplemental Contract Objection and the Winning Bidder(s) has designated that it wishes to take assignment of such contract or lease, and the parties are unable to consensually resolve the dispute, then, to the extent the Sale Hearing has occurred, the Debtors shall seek an expedited hearing before the Court to resolve such objection, but such Designated Contract shall be assumed and assigned only upon satisfactory resolution of the Supplemental Contract Objection, to be determined in the Winning Bidder's discretion. If a Supplemental Contract Objection is not satisfactorily resolved, the Winning Bidder may determine that such contract or lease should not be assigned in connection with the Winning Bidders' Sale Transaction(s), in which case the Winning Bidder will not be responsible for any Cure Costs with respect to such executory contract or unexpired lease.

Failure to Timely File Assumption and Assignment Objections or Supplemental Assumption and Assignment Objections. If a Contract Counterparty does not timely file an Assumption and Assignment Objection or Supplemental Contract Objection by the relevant deadline: (i) the Cure Costs, if any, set forth in this notice (or Supplemental Assumption and Assignment Notice) shall be controlling, notwithstanding anything to the contrary in any Designated Contracts or any other document; and (ii) the Contract Counterparty will be deemed to have consented to the assumption and assignment of the Designated Contract and the Cure Costs, if any, and will be forever barred from objecting to the assumption and assignment of such Designated Contract and rights thereunder, including the Cure Costs, if any, and from asserting any other claims related to such Designated Contracts against the Debtors or the Winning Bidder.

If no objections are received with respect to any Designated Contracts, then the applicable Cure Cost set forth in the Designated Contracts Schedule will be binding upon the applicable Contract Counterparty for all purposes and will constitute a final determination of the Cure Cost required to be paid by the applicable Debtor in connection with the assumption and assignment thereof. In addition, any Contract Counterparty that fails to file an Assumption and Assignment Objection or Supplemental Contract Objection, as applicable, in accordance with these Assumption and Assignment Procedures, will be: (i) forever barred from objecting to the Cure Costs or Adequate Assurance with respect to the applicable Designated Contract(s), and the Debtors and the applicable Winning Bidder(s) will be entitled to rely solely upon the Cure Cost set forth in the Designated Contracts Schedule; (ii) deemed to have consented to the assumption and assignment; and (iii) forever barred and estopped from asserting or claiming against the applicable Debtor(s) or the applicable Winning Bidder(s) that any additional amounts are due or other defaults exist, that conditions to assignment must be satisfied, or that there is any other objection or defense to the assumptions or assignment of the applicable Designated Contracts.

II. Other Information

Unless otherwise provided in the Sale Order, the Debtors will have no liability or obligation with respect to defaults relating to the Designated Contracts arising, accruing, or relating to a period on or after the effective date of assignment.

Copies of the Bidding Procedures Motion, the Bidding Procedures Order, the Bidding Procedures, and the Sale Notice may be obtained free of charge at the website <https://cases.ra.kroll.com/Mosaic/> dedicated to the Debtors' Chapter 11 Cases maintained by their claims and noticing agent and administrative advisor, Kroll.

Although the Debtors have made a good-faith effort to identify all Designated Contracts that might be assumed and assigned in connection with a Sale Transaction, the Debtors or the Winning Bidder may identify certain other executory contracts that should be assumed and assigned in connection with a Sale Transaction. Accordingly, the Debtors have reserved the right, at any time before the closing of a Sale Transaction, to (i) supplement the list of Designated Contracts on this Assumption and Assignment Notice with previously omitted Designated Contracts in accordance with the definitive agreement for a Sale Transaction, (ii) remove a Designated Contract from the list of contracts ultimately selected as a Designated Contract that may be assumed and assigned in connection with a Sale Transaction, and/or (iii) modify the previously stated Cure Costs associated with any Designated Contract.

Inclusion of a Designated Contract on this Assumption and Assignment Notice (or a Supplemental Assumption and Assignment Notice) will not obligate the Debtors to assume any Designated Contract listed thereon or the Winning Bidder to take assignment of such Designated Contract and, as set forth above, the Debtors reserve the right to modify the list of Designated Contracts in accordance with the Bidding Procedures Order, including to remove executory contracts or unexpired leases from such list. Only those Designated Contracts that are included on a schedule of assumed and assigned executory contracts and unexpired leases attached to the final Sale Transaction documentation with the Winning Bidder will be assumed and assigned to the Winning Bidder.

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Dated: June [•], 2025
Houston, Texas

/s/

PAUL HASTINGS LLP

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Schlea Thomas (TX Bar No. 24131710)
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*Proposed Counsel to the Debtors and Debtors in
Possession*

EXHIBIT I

ASSIGNED CONTRACTS

EXHIBIT 4

Post-Auction Notice

PLEASE TAKE NOTICE that, on [●], 2025, the United States Bankruptcy Court for the Southern District of Texas (the “Court”) entered that certain order [Docket No. [●]] (the “Bidding Procedures Order”)² approving, among other things, (i) bidding procedures (the “Bidding Procedures”) by which the Debtors will solicit and select the highest or otherwise best offer for the sale of substantially all or a portion of their assets (the “Assets”) through one or more sales of the Assets (each, a “Sale Transaction”) or through a plan of reorganization term sheet; (ii) approving the Bid Protections; (iii) establishing procedures for the assumption and assignment of executory contracts and unexpired leases, including notice of proposed cure amounts (the “Assumption and Assignment Procedures”); (iv) approving the form and manner of the Sale Notice and the Assumption and Assignment Notice; (v) scheduling (a) a date for an auction if the Debtors receive one or more timely and acceptable Qualified Bids (the “Auction”) and (b) a final hearing to approve one or more Sale Transactions, as necessary (the “Sale Hearing”); and (vi) granting related relief. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.

PLEASE TAKE FURTHER NOTICE that, on August 5, 2025, pursuant to the Bidding Procedures Order, the Debtors conducted the Auction with respect to the Assets.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Mosaic Sustainable Finance Corporation (6802); Solar Mosaic LLC (3655); Modern Home LLC (4998); Mosaic Funding Holdings LLC (0866); and SMCTX LLC (6303). The service address for each of the above Debtors is 601 12th Street, Suite 325, Oakland, California 94607.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Bidding Procedures Order.

PLEASE TAKE FURTHER NOTICE that, at the conclusion of the Auction, the Debtors, in consultation with their professionals and Consultation Parties, selected the following Winning Bidder and Backup Bidder(s) with respect to the Assets:

Asset(s)	Winning Bidder	Backup Bidder
Substantially all assets of the Debtors as further described in the PSA (as defined below) filed contemporaneously herewith and as made available at no cost at: https://cases.ra.kroll.com/Mosaic/		

PLEASE TAKE FURTHER NOTICE that the Debtors entered into a Purchase and Sale

Agreement (the “PSA”), by and between the Debtors and [] (the “Winning Bidder”), a copy of which is attached hereto as Exhibit 1, pursuant to which the Debtors shall sell substantially all of their assets to the Winning Bidder.

PLEASE TAKE FURTHER NOTICE THAT THE PSA CONTEMPLATES CONSENSUAL, MUTUAL RELEASES BY THE DEBTORS, THEIR ESTATES, AND CERTAIN AFFILIATED PARTIES, ON THE ONE HAND, AND THE WINNING BIDDER AND CERTAIN AFFILIATED PARTIES, ON THE OTHER HAND. THE DEBTORS HAVE REQUESTED THAT THE COURT APPROVE SUCH RELEASES IN CONNECTION WITH APPROVAL OF THE PSA AND, UPON APPROVAL OF THE PSA AND CONSUMMATION OF THE SALE TRANSACTION(S) CONTEMPLATED THEREBY, SUCH RELEASES SHALL BE BINDING AND EFFECTIVE IN ALL RESPECTS.

PLEASE TAKE FURTHER NOTICE that a hearing to approve and authorize the Sale Transaction will be held before the Court on or before **August 14, 2025 at [] [p.m. / a.m.] (prevailing Central Time)** or such other date as determined by the Court. The Sale Hearing may be adjourned from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court or by notice filed on the docket in these chapter 11 cases.

PLEASE TAKE FURTHER NOTICE THAT any objections (a) to the manner in which the Auction was conducted, (b) to the identity of the Winning Bidder or Backup Bidder, and/or (c) based on the ability of the Winning Bidder to provide adequate assurance of future performance to counterparties to executory contracts and unexpired leases contemplated to be assumed and assigned to the Winning Bidder must be filed with the Court and served on the Objection Recipients (defined below) and counsel to any Winning Bidder(s) (if known) no later than **August 6, 2025 at 5:00 p.m. (prevailing Central Time)** (the “Post-Auction Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that the Objection Recipients are: (i) the Debtors; (ii) proposed counsel to the Debtors, (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson; (iii) counsel to the DIP Agent, Jefferies LLC, 520 Madison Avenue, New York, New York 10022, Attn: Richard W. Morgner; (v) counsel to any statutory committee appointed in these cases; and (vi) any parties entitled to notice pursuant to Bankruptcy Rule 2002 (collectively, the “Objection Recipients”).

PLEASE TAKE FURTHER NOTICE that, at the Sale Hearing, the Debtors will seek Bankruptcy Court approval of the Winning Bid and the assumption and assignment of the Selected Designated Contracts to the Winning Bidder. Unless the Bankruptcy Court orders otherwise, the Sale Hearing shall be an evidentiary hearing on matters relating to the sale of the Debtors’ Assets and there will be no further bidding at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that if the Winning Bidder fails to consummate the Winning Bid, the Debtors may, in consultation with the Consultation Parties, designate the Backup Bid to be the new Winning Bid and the Backup Bidder to be the new Winning Bidder, and the Debtors will be authorized, but not required, to consummate the transaction with the Backup Bidder without further order of the Bankruptcy Court, so long as such Backup Bid shall have been approved in connection with the Court’s approval of the Winning Bid, or subject to Court approval if not. In such case of a breach or failure to perform on the part of the Winning Bidder and in such other circumstances as may be specified in the definitive documentation governing the Winning Bid, the defaulting Winning Bidder’s deposit shall be forfeited to the Debtors. The Debtors specifically reserve the right to seek all available damages, including specific performance, from any defaulting Winning Bidder (including any Backup Bidder designated as a Winning Bidder) in accordance with the terms of the Bidding Procedures.

PLEASE TAKE FURTHER NOTICE that this Notice is subject to the terms and conditions of the Motion and the Bidding Procedures Order, with the Bidding Procedures Order controlling in the event of any conflict. The Debtors encourage parties in interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of the Assets and/or copies of any related document, including the Motion or the Bidding Procedures Order, may make a written request to proposed counsel to the Debtors, Paul Hastings LLP, Attn: (a) Paul Hastings LLP, 609 Main Street, Suite 2500, Houston, Texas 77002, Attn: Charles Persons, Schlea Thomas, (b) Paul Hastings LLP, 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Matthew Murphy, Geoffrey King, Michael Jones, Louise Simpson. In addition, copies of the Motion, the Bidding Procedures Order, and this Notice may be examined by interested parties free of charge at the website established for these chapter 11 cases by the Debtors’ court-approved claims and noticing agent, Kroll LLC, at <https://cases.ra.kroll.com/Mosaic/>.

CHAPTER 11 CASES MAY RESULT IN THE REJECTION OF YOUR BID.

FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER BY THE SALE OBJECTION DEADLINE WILL FOREVER BAR SUCH PERSON OR

ENTITY FROM ASSERTING ANY OBJECTION TO THE MOTION, THE ORDER APPROVING THE SALE TRANSACTION, THE PROPOSED SALE TRANSACTION, OR ANY OTHER AGREEMENT EXECUTED BY THE DEBTORS AND A WINNING BIDDER AT THE AUCTION.

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Dated: June [•], 2025
Houston, Texas

/s/

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*Proposed Counsel to the Debtors and Debtors in
Possession*