

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: FURIE OPERATING ALASKA, LLC, <i>et al.</i> , ¹ Debtors.	Chapter 11 Case No. 19-11781 (LSS) (Jointly Administered) Re: Docket No. 14
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BIDDING PROCEDURES

The above captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) in the jointly administered chapter 11 cases (collectively, the “**Chapter 11 Cases**”) currently pending in the United States Bankruptcy Court for the District of Delaware (the “**Court**”) are authorized by the Court to conduct a sale of all or substantially all of the Debtors’ assets. On **September [-], 2019**, the Court entered the *Order (A) Approving Bidding Procedures for the Sale of the Debtors’ Assets, (B) Approving Procedures for Stalking Horse Bid Protections, (C) Scheduling an Auction For, and Hearing to Approve, the Sale of the Debtors’ Assets, (D) Approving the Form and Manner of Notice Thereof, (E) Approving Contract Assumption and Assignment Procedures and (F) Granting Related Relief* [Docket No. ____] (the “**Bidding Procedures Order**”) pursuant to which the Court, among other things, approved these Bidding Procedures (these “**Bidding Procedures**”) to be employed to solicit and evaluate bids for the purchase of all or substantially all of the Debtors’ assets and/or equity interests (the “**Assets**”).²

These Bidding Procedures describe, among other things, (i) the Assets offered for sale, (ii) the manner in which bidders and bids may become Qualified Bidders and Qualified Bids (each as defined below), respectively, (iii) the procedures for conduct of the Auction (as defined below), if necessary, (iv) the procedures for selection of the Successful Bidder(s) and Alternate Bidder(s) (each as defined below) and (v) the procedures for approval of the sale of the Assets to the Successful Bidder(s) by the Court.

1. Submissions to the Debtors.

All submissions to the Debtors required to be made under these Bidding Procedures must be directed to each of the following persons unless otherwise provided (collectively, the “**Bid Notice Parties**”):

¹ The Debtors, together with the last four digits of each Debtor’s federal tax identification number, are: Furie Operating Alaska, LLC (8721); Cornucopia Oil & Gas Company, LLC (9914); and Corsair Oil & Gas LLC (8012). The location of the Debtors’ corporate headquarters and the service address for all Debtors is 188 W. Northern Lights Blvd. Suite 620, Anchorage, Alaska 99503.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Order, or if not defined therein, then in Sale Motion.

- a. **Debtors.** c/o Furie Operating Alaska, LLC, 188 W. Northern Lights Blvd. Suite 620, Anchorage, Alaska 99503 (Attn: d.elder@furiealaska.com).
- b. **Debtors' Counsel.** McDermott Will & Emery LLP, 340 Madison Avenue, New York, New York 10173 (Attn: Timothy W. Walsh and Riley T. Orloff; twwalsh@mwe.com, rorloff@mwe.com); and Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward and Ericka F. Johnson; matthew.ward@wbd-us.com, ericka.johnson@wbd-us.com).
- c. **Debtors' Interim Chief Operating Officer.** Ankura Consulting Group, LLC, 1775 Sherman Street, Suite 2775, Denver, CO 80203 (Attn: Scott M. Pinsonnault; scott.pinsonnault@ankura.com).
- d. **Debtors' Investment Banker.** Seaport Global Securities LLC, 400 Poydras Street, Suite 3100, New Orleans, LA 70130 (Attn: Michael Schmidt and Lucas Hohnstein; mschmidt@seaportglobal.com, lhohnstein@seaportglobal.com).
- e. **Counsel to the DIP Agent and Prepetition Term Loan Administrative Agent.** Kirkland & Ellis LLP, 300 North LaSalle, Chicago, IL 60654 (Attn: Chad Husnick; chusnick@kirkland.com); Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: George Klidonas; george.klidonas@kirkland.com).
- f. **The Office of the United States Trustee for the District of Delaware.** 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware, 19801 (Attn: Juliet Sarkessian; Juliet.M.Sarkessian@usdoj.gov).
- g. **Counsel to the Melody Lenders.** Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Abhilash M. Raval and Lauren C. Doyle; araval@milbank.com, ldoyle@milbank.com).
- h. **Counsel to the McGinty Road Lender.** Stinson LLP, 50 South Sixth Street, Suite 2600, Minneapolis, MN 55402 (Attn: Adam M. Nathe; adam.nathe@stinson.com).
- i. **Counsel to the Prepetition Tax Credit Administrative Agent.** Vinson & Elkins LLP, 2001 Ross Avenue, Suite 3900, Dallas, TX 75201 (Attn: William L. Wallander and Bradley R. Foxman; bwallander@velaw.com, bfoxman@velaw.com).

2. Participation Requirements

A. Interested Parties.

Unless otherwise ordered by the Court for cause shown, to participate in the bidding process described herein (the “**Bidding Process**”), each interested person or entity (each an “**Interested Party**”) must deliver the following documents (the “**Preliminary Bid Documents**”) (unless previously delivered) to the Debtors, if determined to be necessary by the Debtors in their discretion, following reasonable consultation with the DIP Agent, the Prepetition Agents (as

defined in the DIP Orders), and the Official Committee of Unsecured Creditors (if any) (the “**Committee**” and together with the DIP Agent and the Prepetition Agents, the “**Consultation Parties**”) (such discretion, including consultation with the Consultation Parties, the “**Permitted Discretion**”); *provided that*, (x) if either the DIP Agent (on behalf of the DIP Secured Parties) or the Prepetition Term Loan Administrative Agent (on behalf of the Prepetition Term Loan Secured Parties) submits a bid for any of the Assets, both the DIP Agent and Prepetition Term Loan Administrative Agent shall cease being Consultation Parties as set forth in the Bidding Procedures and (y) if the Prepetition Tax Credit Administrative Agent (on behalf of the Prepetition Tax Credit Secured Parties) submits a bid for any of the Assets, the Prepetition Tax Credit Administrative Agent shall cease being a Consultation Party as set forth in the Bidding Procedures; *provided further* that, if any of the DIP Secured Parties or the Prepetition Secured Parties seek to participate in the Bidding Process, such parties shall not be required to deliver the Preliminary Bid Documents:

- i. an executed confidentiality agreement substantially in form and substance acceptable to the Debtors;
- ii. a statement and other factual support demonstrating, to the Debtors’ satisfaction, that the Interested Party has a bona fide interest in purchasing any or all of the Assets;
- iii. a description of the nature and extent of any due diligence the Interested Party wishes to conduct and the date in advance of the Bid Deadline (as defined below) by which such due diligence will be completed; and
- iv. sufficient information to allow the Debtors, in their sole discretion, to determine that the Interested Party has the financial wherewithal and any required internal corporate, legal or other authorizations to close the sale transaction.³

If the Debtors determine in their Permitted Discretion that an Interested Party’s desire to become a Potential Bidder is solely on account of a *bona fide* interest in purchasing any or all of the Assets, such Interested Party will be deemed a “**Potential Bidder**” and the Debtors will deliver to such Potential Bidder (a) a form of purchase agreement and (b) access to the Debtors’ confidential electronic data room concerning the Assets (the “**Data Room**”), which access may be limited by the Debtors in their Permitted Discretion.

³ This information may include, but is not limited to, current audited financial statements of the Interested Party (or such other form of financial disclosure acceptable to the Debtors in their Permitted Discretion) or, if the Interested Party is an entity formed for the purpose of acquiring any or all of the Assets, (A) current audited financial statements of the equity holder(s) (the “**Equityholder(s)**”) of the Interested Party (or such other form of financial disclosure acceptable to the Debtors in their Permitted Discretion), (B) a written commitment acceptable to the Debtors in their Permitted Discretion that the Equityholder(s) are responsible for the Interested Party’s obligations in connection with the Bidding Process and (C) copies of any documents evidencing any financing commitments necessary to consummate the transaction.

B. Due Diligence.

Until the Bid Deadline, in addition to granting access to the Data Room, the Debtors will provide Potential Bidders with reasonable due diligence access and additional information, as may be reasonably requested by a Potential Bidder. If any Potential Bidder is (or is affiliated with) a competitor, customer, or vendor of the Debtors, the Debtors may withhold any information or due diligence access from such Potential Bidder that the Debtors determine is sensitive, proprietary or otherwise not appropriate for disclosure. Only Potential Bidders will be eligible to receive due diligence information from the Debtors.

All due diligence requests must be directed to:

Seaport Global Securities LLC, 400 Poydras Street, Suite 3100, New Orleans, LA 70130 (Attn: Michael Schmidt and Lucas Hohnstein: mschmidt@seaportglobal.com, lhohnstein@seaportglobal.com).

Each Potential Bidder will comply with all reasonable requests for additional information and due diligence access by the Debtors or their advisors regarding such Potential Bidder and its contemplated transaction. Failure by a Potential Bidder to comply with reasonable requests for additional information and due diligence access may be a basis for the Debtors to determine, in their Permitted Discretion, that a bid made by such Qualified Bidder is not a Qualified Bid. Unless otherwise determined by the Debtors in their Permitted Discretion, in consultation with the Consultation Parties, the availability of due diligence, information and access to a Potential Bidder will cease immediately if (i) the Potential Bidder does not become, or the Debtors determine in their Permitted Discretion that the Potential Bidder is not likely to become, a Qualified Bidder, (ii) the Potential Bidder violates the terms of its confidentiality agreement, (iii) the Debtors become aware that the information set forth on the Preliminary Bid Documents is inaccurate or misleading or of any other reason to doubt such Potential Bidder's ability to close its contemplated transaction, or (iv) the Bidding Process is terminated in accordance with its terms. After the Bid Deadline (as defined below), the Debtors shall have no obligation to furnish any additional information to, or otherwise facilitate any additional due diligence by, any Potential Bidder.

C. Bid Deadline

A Potential Bidder who desires to be deemed a Qualified Bidder (as defined below) must deliver the Required Bid Documents (as defined below) via email (in .pdf or similar format) so as to be **actually received** by the Bid Notice Parties on or before 12:00 p.m. (prevailing Eastern Time) on November 7, 2019 (the "**Bid Deadline**"); *provided, however*, that any DIP Secured Party or Prepetition Secured Party seeking to credit bid in accordance with these Bidding Procedures and the Bidding Procedures Order shall not be subject to the Bid Deadline.

The Debtors, with the consent of the DIP Agent, in consultation with the other Consultation Parties, and without the need for further Court approval, may extend the Bid Deadline by a reasonable period of time once or successively if the Debtors believe (in their Permitted Discretion) that such extension would further the goal of attaining the highest or otherwise best offer for the Debtors' assets. The Debtors shall promptly notify all Potential Bidders of any such extension.

D. Bid Requirements

Each offer, solicitation or proposal by a Potential Bidder must satisfy each of the following conditions to be deemed a “**Qualified Bid**,” and for the Potential Bidder to be deemed a “**Qualified Bidder**,” unless any such conditions that are not satisfied are waived by the Debtors in their Permitted Discretion, all bids must include the following items (collectively, the “**Required Bid Documents**”):

i. Irrevocable. Each bid must be accompanied by an executed letter stating that the bidder’s offer is irrevocable until consummation of a transaction involving the Assets identified in such bid and that such bidder agrees to serve as an Alternate Bidder (as defined herein) in accordance with these Bidding Procedures.

ii. Executed Agreement. Each bid must be set forth in a duly authorized and executed purchase agreement, which purchase agreement must be based on the form purchase agreement provided by Seaport, marked to show any revisions, including, among other things, the purchase price for the Assets identified in such Bid, together with all exhibits and schedules.⁴

iii. Financial Wherewithal. Each Potential Bidder must provide written evidence acceptable to the Debtors (in their Permitted Discretion) demonstrating financial wherewithal, operational ability and corporate authorization to consummate the proposed transaction. Such information should include, *inter alia*, the following;

1. contact names and numbers for verification of financing sources;
2. evidence of the Potential Bidder’s internal resources and proof of unconditional debt funding commitments from a recognized banking institution;
3. The Potential Bidder’s current financial statements (audited if they exist) or other similar financial information;
4. a description of the Potential Bidder’s pro forma capital structure; and
5. any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors, in consultation with the Consultation Parties, demonstrating that such Bidder has the ability to close the proposed transaction.

⁴ Form purchase agreement will be circulated to Potential Bidders in advance of the Bid Deadline.

iv. Committed Financing. Each Potential Bidder must provide written evidence of a firm commitment for financing to consummate the proposed transaction, or other evidence of ability to consummate the proposed transaction without financing, that is satisfactory to the Debtors (in their Permitted Discretion).

v. Additional Requirements. A bid will be considered a Qualified Bid only if the bid:

1. identifies the legal name of the purchaser (including any Equityholder(s), if the purchaser is an entity formed for the purpose of consummating the proposed transaction), and full disclosure of any affiliates;

2. states that the Bid is for all of the Debtors' Assets (a "**Full Bid**") or, if the Bid is a "**Partial Bid**", identifies the Assets subject to such Bid;

3. is not materially more burdensome, less favorable or more conditional than the terms of the Stalking Horse Bid (as defined below), if any, as determined by the Debtors in their sole discretion;

4. identifies all executory contracts and unexpired leases of which the Potential Bidder seeks assignment from the Debtors, if any;

5. is not conditioned on (i) obtaining financing or (ii) the outcome of unperformed due diligence;

6. is not conditioned on the receipt of any third party approvals or consents (excluding required Court approval and required governmental, licensing or regulatory approval or consent, if any), including without limitation board of director approval;

7. with respect to any governmental, licensing or regulatory approvals or consents, includes a description of all such approvals or consents that are required to consummate the proposed transaction (including any antitrust approval or clearance related to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended), together with evidence satisfactory to the Debtors in their Permitted Discretion of the ability of the bidder to obtain such approvals or consents 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, the obtainment or effectiveness of any such approvals or consents;

8. is accompanied by a cash deposit by wire transfer to an escrow agent selected by the Debtors (the "**Deposit Agent**") in an amount equal to 10% of the cash purchase price set forth in connection with such Bid (any such deposit, a "**Good Faith Deposit**");

9. indicates that the bidder will not seek any transaction or break-up fee, expense reimbursement, or similar type of payment (other than if such bid is selected to be a Stalking Horse Bid and subject to the provisions of Part 3 below);

10. provides for a commitment to close as soon as practicable, but in no event later than January 6, 2020, that being the date which is one hundred fifty (150) calendar days after the Petition Date.

11. sets forth the representatives that are authorized to appear and act on behalf of the bidder in connection with the proposed transaction;

12. fully discloses the identity of each entity that will be bidding for the Assets or otherwise financing such Bid (including through the issuance of debt in connection with such Bid), including full disclosure of any connections to or agreements with the Debtors, affiliates of the Debtors, direct or indirect holders of equity interests of the Debtors, the Stalking Horse Bidder (if any) or any other known, potential, or prospective Potential Bidder, and a summary of any such financing;

13. indicates that the bidder agrees not to seek any substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code related to bidding for the Assets;

14. if the bid contemplates the assumption and assignment of any contracts or leases, includes evidence of the bidder's ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such bidder's ability to perform in the future the contracts and leases proposed in its bid to be assumed by the Debtors and assigned to the bidder, in a form that will permit the Debtors to disseminate immediately such evidence to the counterparties to such executory contracts and leases (the "**Adequate Assurance Information**");

15. constitutes a good faith, *bona fide* offer to effectuate the proposed transaction; and

16. is received on or before the Bid Deadline (as such deadline may be extended in accordance with these Bidding Procedures).

E. Non-Conforming Bids

The Debtors shall have the right, in their Permitted Discretion, to deem a bid a Qualified Bid even if such bid does not conform to one or more of the requirements above or does not include one or more Required Bid Documents. If the Debtors receive a bid prior to the Bid Deadline that is not a Qualified Bid, the Debtors may, in their Permitted Discretion, provide the bidder with the opportunity to remedy any deficiencies following the Bid Deadline but not later than one Business Day prior to the Auction. If any bid is determined by the Debtors not to be a Qualified Bid, and

the applicable bidder fails to remedy such bid in accordance with these Bidding Procedures, the Debtors shall promptly instruct the Deposit Agent to return such bidder's Good Faith Deposit.

F. Credit Bid

Each of the DIP Secured Parties shall be deemed Qualified Bidders and the DIP Agent (acting on the instructions of the DIP Lenders) shall have the right to credit bid the DIP Obligations, in accordance with the DIP Documents and subject to the Carve-Out, the DIP Orders, the New Side Letter, and the Prepetition Intercreditor Agreement, up to the full amount of the DIP Obligations owed to such party in any sale contemplated by the Bidding Procedures pursuant to section 363(k) of the Bankruptcy Code; *provided* that such credit bid must be **actually received by** the Bid Notice Parties prior to the commencement of the Auction (as defined below); and *provided further* that ,if the DIP Agent (on behalf of the DIP Secured Parties) submits a bid for any of the Assets, the DIP Agent shall cease being a Consultation Party as set forth in the Bidding Procedures. Each of the Prepetition Secured Parties shall be deemed Qualified Bidders and shall not be required to comply with the Bid Requirements set forth herein, including, without limitation, the requirement to submit any Required Bid Documents, and (i) the Prepetition Term Loan Administrative Agent (acting on instructions of the Required Lenders under the Prepetition Term Loan Agreement) shall have the right to credit bid up to the full amount of the Prepetition Term Loan Obligations, in accordance with the Prepetition Term Loan Documents and subject to the Carve-Out and the New Side Letter, and (ii) the Prepetition Tax Credit Administrative Agent (as defined in the DIP Orders) shall have the right to credit bid up to the full amount of the Prepetition Tax Credit Obligations (as defined in the DIP Orders), in accordance with the Prepetition Tax Credit Documents (as defined in the DIP Orders) and subject to the Carve-Out, in each case subject to section 363(k) of the Bankruptcy Code, the challenge rights set forth in paragraph SS of the Final DIP Order, and the terms and conditions set forth in the DIP Documents and the Prepetition Intercreditor Agreement; *provided* that such credit bid must be **actually received by** the Bid Notice Parties prior to the commencement of the Auction (as defined below); and *provided further* that (x) if either the DIP Agent (on behalf of the DIP Secured Parties) or the Prepetition Term Loan Administrative Agent (on behalf of the Prepetition Term Loan Secured Parties) submits a bid for any of the Assets, the DIP Agent shall cease being a Consultation Party as set forth in the Bidding Procedures and (y) if the Prepetition Tax Credit Administrative Agent (on behalf of the Prepetition Tax Credit Secured Parties) submits a bid for any of the Assets, the Prepetition Tax Credit Administrative Agent shall cease being a Consultation Party as set forth in the Bidding Procedures.

G. Deemed Acknowledgements and Representations

By submission of its bid, each Qualified Bidder shall be deemed to acknowledge and represent that it (i) has had an opportunity to conduct any and all due diligence regarding the Assets that are the subject of the Auction prior to making any such bids, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/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, except as expressly stated in these Bidding Procedures or, as to the Successful Bidder(s), the purchase agreement(s) with such Successful Bidder(s).

Without the written consent of the Debtors, in their Permitted Discretion, a Qualified Bidder may not amend, modify or withdraw its Qualified Bid, except for proposed amendments to increase the amount or otherwise improve the terms of its Qualified Bid, during the period that such Qualified Bid is required to remain irrevocable.

H. Distribution and Evaluation of Qualified Bids

All Qualified Bids will be considered by the Debtors; bids other than Qualified Bids will not be considered. The Debtors may in their Permitted Discretion evaluate bids on any grounds, including, but not limited to:

- i. the amount of the purchase price, including non-cash consideration, set forth in the Bid;
- ii. the value to be provided to the Debtors under the Bid, including the net economic effect upon the Debtors' estates;
- iii. any benefit to the Debtors' bankruptcy estates from any assumption of liabilities or waiver of liabilities, including the release or replacement of letters of credit;
- iv. the transaction structure and execution risk, including conditions to and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals;
- v. the anticipated timing to closing and whether such timing is consistent with the Debtors' adherence to the Approved Budget;
- vi. the impact on employees and employee claims against the Debtors;
- vii. the presence of any governmental, licensing, regulatory or other approvals or consents in a bid, and the anticipated timing or likelihood of obtaining such approvals or consents;
- viii. the impact on trade and other creditors; and
- ix. any other factors the Debtors may reasonably deem relevant consistent with their fiduciary duties.

For the avoidance of doubt, that a bid is contingent upon obtaining any governmental, licensing, regulatory or other approvals or consents in a bid, and the anticipated timing or likelihood of obtaining such approvals or consents, may be grounds for the Debtors, in their Permitted Discretion, to determine that such bid (i) is not a Qualified Bid or (ii) is not higher or otherwise better than any other Qualified Bid; *provided* that the Debtors shall not exercise their Permitted Discretion with respect to such approvals or consents with discriminatory intent.

3. Stalking Horse Bidder (if any) and Bid Protections

The Debtors, in consultation with the Consultation Parties, may select a Qualified Bidder to serve as the minimum bid for substantially all of the Debtors' assets or any grouping or subset of the Debtors' assets (such Qualified Bidder, a "**Stalking Horse Bidder**" and, such Qualified Bidder's Qualified Bid, a "**Stalking Horse Bid**").

If the Debtors seek to designate a Stalking Horse Bidder and/or provide a break-up fee or expense reimbursement (collectively, "**Bid Protections**") for any Stalking Horse Bidder, the Debtors shall file a supplement to the sale motion (a "**Stalking Horse Supplement**") seeking approval of the same. The Debtors shall serve the Stalking Horse Supplement on the Objection Notice Parties and all other parties requesting notice pursuant to Bankruptcy Rule 2002 by overnight mail with no less than ten (10) calendar days' notice of the objection deadline and with no further notice being required, except as set forth in the last sentence of this paragraph. The Stalking Horse Supplement must (i) set forth the Stalking Horse Bid and the proposed Bid Protections, (ii) disclose whether the Stalking Horse Bidder has any connection to the Debtors other than those that arise from the Stalking Horse Bid and, if the Stalking Horse Bidder is an entity formed for the purpose of consummating the proposed transaction, then the identity of the equity holders of such entity, (iii) contain an exhibit consisting of the purchase agreement finalized with the Stalking Horse Bidder, (iv) contain a proposed form of Stalking Horse Approval Order, (v) be supported by sufficient evidence for the Court to make a determination that designation of the Stalking Horse Bidder and approval of the Bid Protections are actually necessary to preserve the value of the Debtors' estates, (vi) include the list of assumed Potentially Assumed Contracts submitted with the Stalking Horse Bid, and (vii) provide information as to whom requests for additional adequate assurance should be directed. The Debtors shall contemporaneously also cause the Stalking Horse Supplement to be published on the Case Information Website and serve the Stalking Horse Supplement and Adequate Assurance Information for the Stalking Horse Bidder on (i) each Contract Counterparty for a contract designated by the Stalking Horse Bidder for assumption and assignment and (ii) each Contract Counterparty to any known Contract that may later be designated by the Stalking Horse Bidder for assumption and assignment, in each case by overnight mail or electronic mail.

Parties in interest may object to the designation of a Stalking Horse Bidder or any of the terms of such Stalking Horse Bid (each, a "**Stalking Horse Objection**") within ten (10) calendar days after service of the Stalking Horse Supplement (the "**Stalking Horse Objection Deadline**"). If a timely Stalking Horse Objection is filed, the Debtors will schedule a hearing (the "**Stalking Horse Hearing**") regarding such Stalking Horse Objection as soon as reasonably practicable seeking approval of such Stalking Horse Bid on or before November 6, 2019. In the absence of a Stalking Horse Objection, upon the expiration of the Stalking Horse Objection Deadline, the Debtors will submit the Stalking Horse Approval Order to the Court, which may enter such order without a hearing.

Subject to the entry of the Stalking Horse Approval Order and final Court approval at the Sale Hearing, in the event that the Debtors select one or more Stalking Horse Bidder(s) in accordance with these Bidding Procedures, the Debtors shall be fully authorized, but not obligated, in an exercise of their business judgment (in consultation with the Consultation Parties) to offer Bid Protections to such Stalking Horse Bidder(s), payable if the Debtors consummate a sale

pursuant to a Qualified Bid other than the Stalking Horse Bid (if the assets subject to such sale are those to which such Stalking Horse Bid relates). To the extent payable, any Bid Protections would be paid out of the proceeds of the sale to which they relate.

4. Auction

A. **Scheduled Time and Date of the Auction**

One or more auctions for the Assets (the “**Auction**”) may be held in accordance with these Bidding Procedures and upon notice to all Qualified Bidders that have submitted Qualified Bids. The Auction, if held, is scheduled to be conducted at the offices of McDermott Will & Emery LLP, 340 Madison Ave., New York, New York 10173 at **10:00 a.m. (prevailing Eastern Time) on November 12, 2019**, or such later time or other location as designated by the Debtors in a notice filed on the docket of the Court and published on the Debtors’ case information website (located at <https://cases.primeclerk.com/furieoperatingalaska> (the “**Case Information Website**”) (please see the Sale Tab for sale-related documents).

If no more than one Qualified Bid is submitted by the Bid Deadline with respect to the Assets or any lot of assets, or if in the judgment of the Debtors an alternative transaction is in the best interest of the Estate, the Debtors may, in consultation with the Consultation Parties, elect to cancel the Auction with respect to such assets and, as applicable, seek approval of the transactions contemplated in the Bid at the Sale Hearing (as defined below).

If any Partial Bids shall be deemed a Successful Bid at the conclusion of the Auction, the collective bid composed of each such Partial Bid for the applicable assets (the “**Highest Collective Partial Bid**”) shall be treated as a Full Bid. Any Qualified Bidder that submitted a Full Bid shall have the right to increase its bid so as to match or exceed the amount of the Highest Collective Partial Bid, including by making a collective bid with one or more Qualified Bids from Qualified Bidders that are not included in the Highest Collective Partial Bid after the conclusion of any Auction for the above referenced assets.

If any Qualified Bidders that submitted a Full Bid matches the Highest Collective Partial Bid, then the Debtors shall conduct an Auction for the Assets with such Qualified Bidders (including the Highest Collective Partial Bid). At the conclusion of the Auction for the Assets, if the bid submitted by a Stalking Horse Bidder (if any) or any other Qualified Bidders that submitted a Full Bid is equal to the amount of the Highest Collective Partial Bid, then such bid submitted by the Stalking Horse Bidder or any other Qualified Bidders that submitted a Full Bid may, in the Debtors’ Permitted Discretion consistent with the Debtors’ evaluation of Qualified Bids as set forth herein, be determined to be the Successful Bid.

B. **Participants and Attendees**

Principals, representatives or agents of the Debtors, the DIP Agent, the Prepetition Agents, the Committee (if appointed), and any Qualified Bidder that has submitted a Qualified Bid (and the legal and financial advisors to each of the foregoing) will be entitled to attend the Auction. Any other creditor of the Debtors will be permitted to attend the Auction upon advance notice by such creditor of at least two (2) Business Days to the Debtors. Only Qualified Bidders will be

entitled to make any subsequent bids at the Auction. Each Qualified Bidder participating in the Auction must confirm that it (a) has not engaged in any collusion with respect to the bidding or the sale of any of the Assets as described herein, (b) has reviewed, understands and accepts these Bidding Procedures, (c) has consented to the jurisdiction of the Court and (d) intends to consummate its Qualified Bid if it is selected as the Successful Bid. Each Qualified Bidder participating in the Auction shall appear in person at the Auction or through a duly authorized representative.

C. Auction Procedures

At least two (2) calendar days prior to the Auction, the Debtors will (a) notify each Qualified Bidder that has timely submitted a Qualified Bid that its bid is a Qualified Bid and (b) provide all Qualified Bidders, the Committee and the DIP Agent with (i) copies of the Qualified Bid or combination of Qualified Bids that the Debtors believe is the highest or otherwise best offer for each Bid Asset (the “**Starting Bid(s)**”), (ii) an explanation of how the Debtors value the Starting Bid(s) and (iii) a list identifying all of the Qualified Bidders and their respective Qualified Bids.

The Debtors, in their Permitted Discretion, may employ and announce at the Auction additional procedural rules for conducting such auction (e.g., the amount of time allotted to submit Subsequent Bids (as defined below)); *provided*, that such rules are (a) not inconsistent with the Bidding Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, or any order of the Court entered in connection herewith and (b) disclosed to all Qualified Bidders.

Bidding at the Auction will begin with the Starting Bid(s) and continue, in one or more rounds of bidding in the presence of all parties at the Auction, so long as during each round at least one subsequent bid (a “**Subsequent Bid**”) is submitted by a Qualified Bidder that (a) improves upon such Qualified Bidder’s immediately prior Qualified Bid and (b) the Debtors determine (in their Permitted Discretion) that such Subsequent Bid is (i) for the first round, a higher or otherwise better offer than the Starting Bid and (ii) for subsequent rounds, a higher or otherwise better offer than the Leading Bid (as defined below), in each case taking into account other Qualified Bids for other Assets. The Debtors, in their Permitted Discretion, may determine appropriate minimum bid increments or requirements for each round of bidding.

After the first round of bidding and between each subsequent round of bidding, the Debtors will determine, in their Permitted Discretion, and announce the bid or bids that they believe to be the highest or otherwise best offer or combination of offers (the “**Leading Bid**”). A round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge and confirmation of the Leading Bid.

For the purpose of evaluating Subsequent Bids, the Debtors may require, in their Permitted Discretion, a Qualified Bidder submitting a Subsequent Bid to submit, as part of its Subsequent Bid, additional evidence (in the form of financial disclosure or credit-quality support information or enhancement acceptable to the Debtors in their Permitted Discretion) demonstrating such Qualified Bidder’s ability to close the proposed transaction.

The Debtors shall maintain a transcript of all bids made and announced at the Auction, including the Starting Bid(s), all Subsequent Bid(s), the Leading Bid(s), the Alternate Bid(s) (as defined below) and the Successful Bid(s).

5. Selection of Successful Bid(s)

Prior to the conclusion of the Auction, the Debtors shall (in each case in their Permitted Discretion) (a) review and evaluate each bid made at the Auction on the basis of financial and contractual terms and other factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the sale transaction, (b) determine and identify, in their Permitted Discretion, the highest or otherwise best offer or collection of offers (the “**Successful Bid(s)**”), (c) determine and identify, in their Permitted Discretion the next highest or otherwise best offer or collection of offers (the “**Alternate Bid(s)**”) and (d) notify all Qualified Bidders participating in the Auction, prior to its adjournment, of the identity of the party or parties that submitted the Successful Bid(s) (the “**Successful Bidder(s)**”), the amount and other material terms of the Successful Bid(s), the identity of the party or parties that submitted the Alternate Bid(s) (the “**Alternate Bidder(s)**”) and the amount and other material terms of the Alternate Bid(s). No additional bids may be considered after the Auction is closed.

By no later than noon on the calendar day following the selection of the Successful Bid(s) and Alternate Bid(s), the Debtors shall file a notice of the results of the Auction (the “**Notice of Auction Results**”) with the Court and cause such notice to be published on the Case Information Website, which shall constitute definitive proof that the Debtors have closed the Auction. The Notice of Auction Results shall identify the Successful Bidder(s) and Alternate Bidder(s), and if any of the same are entities formed for the purpose of consummating the proposed transaction, then the identity of the equity holders of such entities; the amount of the Successful Bid(s) and the Alternate Bid(s); shall include the list of assumed Potentially Assumed Contracts submitted with the Successful Bidder(s)’ Qualified Bid and the Alternative Bidder(s)’ Qualified Bid; and shall provide information as to whom requests for additional adequate assurance should be directed.

Within two (2) Business Days after the completion of the Auction (or as soon as reasonably practicable thereafter), the Successful Bidder(s) and the applicable Debtors shall complete and execute all agreements, instruments and other documents necessary to consummate the applicable sale transaction(s) (subject to entry of the Sale Order (if any)) or otherwise contemplated by the applicable Successful Bid(s).

6. The Sale Hearing

The hearing to consider the proposed Sale Order (if any) (the “**Sale Hearing**”) shall be held at **10:00 a.m. (prevailing Eastern Time) on November 20, 2019** before the Honorable Laurie Selber Silverstein in the United States Bankruptcy Court for the District of Delaware, Courtroom No. 2, 824 North Market Street, 6th Floor, Wilmington, Delaware 19801.

The Sale Hearing may be adjourned by the Debtors by an announcement of the adjourned date at a hearing before the Court and/or by filing a notice on the Court’s docket. At the Sale Hearing, the Debtors will seek the Court’s approval of the Successful Bid(s) and, in their Permitted Discretion, the Alternate Bid(s).

The Debtors' presentation to the Court of the Successful Bid(s) and Alternate Bid(s) will not constitute the Debtors' acceptance of such bid(s), which acceptance will only occur upon approval of such bid(s) by the Court. Following the Court's entry of the Sale Order (if any) approving such bid(s), the Debtors and the Successful Bidder(s) shall proceed to consummate the transaction(s) contemplated by the Successful Bid(s), in all cases within the milestones set in the DIP Credit Agreement. If the Debtors and the Successful Bidder(s) fail to consummate the proposed transaction(s), then the Debtors shall file a notice with the Court advising of such failure. Upon the filing of such notice with the Court, the Alternate Bid(s) will be deemed to be the Successful Bid(s) and the Debtors will be authorized but not directed, in their Permitted Discretion, to effectuate the transaction(s) with the Alternate Bidder(s) subject to the terms of the Alternate Bid(s) of such Alternate Bidder(s) without further order of the Court. If such failure to consummate the sale is the result of a breach by the Successful Bidder(s) (such bidder(s), the "**Breaching Bidder(s)**") of its (their) purchase agreement(s), the Debtors reserve the right to seek all available remedies from the Breaching Bidder(s), subject to the terms of the applicable purchase agreement(s).

7. Return of Good Faith Deposit

The Good Faith Deposits of all Qualified Bidders will be held in escrow by the Deposit Agent and will not become property of the Debtors' bankruptcy estates unless released from escrow pursuant to the terms of the applicable escrow agreement or pursuant to further order of the Court. The Deposit Agent will retain the Good Faith Deposits of the Successful Bidder(s) and the Alternate Bidder(s) until the closing of the transaction(s) contemplated by the Successful Bid(s) or the Alternate Bid(s), as applicable, in accordance with Section 6 above, except as otherwise ordered by the Court. The Good Faith Deposits (and all interest accrued thereon) of the other Qualified Bidders will be returned within four Business Days after the entry of the Sale Order (if any). At the closing of the transaction contemplated by the Successful Bid(s), the Successful Bidder(s) will receive a credit in the amount of its Good Faith Deposit (plus all interest accrued thereon). All remaining Good Faith Deposits (and all interest accrued thereon) held by the Deposit Agent will be released by the Deposit Agent four (4) Business Days after the closing of the transaction(s) contemplated by the Successful Bid(s); *provided*, the Deposit Agent will retain the Good Faith Deposit of a Breaching Bidder pending a ruling by the Court as to the amount of damages owed, if any, by such Breaching Bidder to the Debtors.

8. As Is, Where Is

The sale of the Assets shall be on an "as is, where is" basis and without representations or warranties of any kind, nature or description by the Debtors, their agents or their estates, except as provided in any agreement with respect to the transaction(s) approved by the Court.

9. Free and Clear of Any and All Interests

The Debtors will seek an order approving the sale of all of the Debtors' right, title and interest in and to the Assets subject thereto shall be sold free and clear of any pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon (collectively, the "**Interests**") to the maximum extent permitted by section 363 of the Bankruptcy Code, with such Interests to attach to the net proceeds of the sale of the Assets with the same validity and priority

as such Interests applied against the Assets, without modification of the DIP Lenders' right to be repaid in cash from such proceeds pursuant to the DIP Orders and other DIP Documents.

10. Reservation of Rights of the Debtors

Except as otherwise provided in these Bidding Procedures or the Bidding Procedures Order, the Debtors reserve the right, in their Permitted Discretion, to:

- i. determine which Interested Party is a Potential Bidder;
- ii. determine which bidder is a Qualified Bidder;
- iii. determine which bid is a Qualified Bid;
- iv. determine which Qualified Bid is a Starting Bid;
- v. determine which Qualified Bid is the highest or otherwise best offer for the Assets and which is the next highest or otherwise best offer;
- vi. reject any bid that the Debtors deem to be (a) inadequate or insufficient, (b) not in conformity with the requirements of these Bidding Procedures or the requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules or (c) contrary to the best interests of the Debtors and their estates;
- vii. cancel the Auction;
- viii. extend the deadlines set forth herein; and
- ix. implement additional procedural rules that the Debtors determine will better promote the goals of the Bidding Process and discharge the Debtors' fiduciary duties.

Nothing in these Bidding Procedures shall require the Debtors' board of directors to take any action, or to refrain from taking any action, with respect to these Bidding Procedures, to the extent that the Debtors' board of directors determines, or based on the advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary duties under applicable law.