

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

In re:

AN GLOBAL, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 23-11294 (JKS)

(Joint Administration Requested)

Re: Docket Nos. 72 & 100

**NOTICE OF FILING OF REVISED ORDER REGARDING
DEBTORS' MOTION FOR ENTRY OF: (I) AN ORDER
(A) SCHEDULING A HEARING ON THE APPROVAL OF THE
SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS
FREE AND CLEAR OF ALL ENCUMBRANCES OTHER THAN ASSUMED
LIABILITIES AND PERMITTED ENCUMBRANCES, AND THE ASSUMPTION
AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED
LEASES, (B) APPROVING CERTAIN BIDDING PROCEDURES, BIDDING
PROTECTIONS, AND ASSUMPTION AND ASSIGNMENT PROCEDURES, AND THE
FORM AND MANNER OF NOTICE THEREOF, (C) AUTHORIZING THE DEBTORS
TO ENTER INTO THE STALKING HORSE APA, AND (D) GRANTING RELATED
RELIEF; AND (II) AN ORDER (A) APPROVING ASSET PURCHASE AGREEMENT,
(B) AUTHORIZING THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE
DEBTORS' ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES OTHER THAN
ASSUMED LIABILITIES AND PERMITTED ENCUMBRANCES, (C) AUTHORIZING
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS
AND UNEXPIRED LEASES, AND (D) GRANTING RELATED RELIEF**

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number or registration number in the applicable jurisdiction, are: AN Global LLC (5504); AgileThought, Inc. (2509); 4th Source Holding Corp. (9629); 4th Source Mexico, LLC (7552); 4th Source, LLC (7626); AgileThought Brasil-Consultoria Em Tecnologia LTDA (01-42); AgileThought Brasil Servicos de Consultoria Em Software (01-20); AgileThought Costa Rica S.A. (6822); AgileThought Digital Solutions, S.A.P.I. de C.V. (3KR0); AgileThought México S.A. de C.V. (7E46); AgileThought, LLC (7076); AgileThought Servicios Administrativos, S.A. de C.V. (4AG1); AgileThought Servicios México S.A. de C.V. (8MY5); AgileThought, S.A.P.I. de C.V. (No Tax ID); AGS Alpama Global Services USA, LLC (0487); AN Data Intelligence, S.A. de C.V. (8173); AN Extend, S.A. de C.V. (1D80); AN Evolution, S. de R.L. de C.V. (7973); AN USA (5502); AN UX, S.A. de C.V. (7A42); Cuarto Origen, S. de R.L. de C.V. (0IQ9); Entrepids México, S.A. de C.V. (OCYA); Entrepids Technology Inc. (No Tax ID); Facultas Analytics, S.A.P.I. de C.V. (6G37); Faktos Inc., S.A.P.I. de C.V. (3LLA); IT Global Holding LLC (8776); and QMX Investment Holdings USA, Inc. (9707); AgileThought Argentina, S.A. (No Tax ID); AGS Alpama Global Services México, S.A. de C.V. (No Tax ID); and Tarnow Investment, S.L. (No Tax ID). The Debtors' headquarters are located at 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039.



PLEASE TAKE NOTICE that, on August 28, 2023, the above-captioned debtors and debtors in possession (collectively, the “Debtors”), by and through their undersigned proposed counsel, filed the *Debtors’ Motion for Entry of: (I) an Order (A) Scheduling a Hearing on the Approval of the Sale of All or Substantially All of the Debtors’ Assets Free and Clear of All Encumbrances Other than Assumed Liabilities and Permitted Encumbrances, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (B) Approving Certain Bidding Procedures, Bidding Protections, and Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, (C) Authorizing the Debtors to Enter into the Stalking Horse APA, and (D) Granting Related Relief; and (II) an Order (A) Approving Asset Purchase Agreement, (B) Authorizing the Sale of All or Substantially All of the Debtors’ Assets Free and Clear of All Encumbrances Other than Assumed Liabilities and Permitted Encumbrances, (C) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (D) Granting Related Relief* [Docket No. 72] (the “Motion”).² Attached to the Motion as Exhibit A was the proposed form of order granting the relief requested therein (the “Original Proposed Order”).

PLEASE TAKE FURTHER NOTICE that, on September 15, 2023, the Debtors filed the *Notice of Filing of Supplement to the Stalking Horse APA* [Docket No. 100].

PLEASE TAKE FURTHER NOTICE that, attached hereto as Exhibit 1 is a revised proposed form of order (the “Revised Proposed Order”) granting the relief requested in the Motion. For the convenience of the Court and all parties in interest, a blackline of the Revised Proposed Order against the Original Order is attached hereto as Exhibit 2.

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

PLEASE TAKE FURTHER NOTICE that, the Debtors intend to seek entry of the Revised Proposed Order at the hearing (the “Hearing”) scheduled for **September 22, 2023 at 4:00 p.m (ET)**. Any objections or responses to the Motion or Revised Proposed Order must be made at the Hearing. The Debtors reserve all rights to modify the Revised Proposed Order at or prior to the Hearing.

Dated: September 21, 2023
Wilmington, Delaware

Respectfully submitted,

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Proposed Counsel for the Debtors and Debtors-in-Possession

EXHIBIT 1

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

In re

AN GLOBAL LLC, et al.,¹

Debtors.

Chapter 11

Case No. 23-11294 (JKS)

(Jointly Administered)

**ORDER (I) SCHEDULING A HEARING ON THE
APPROVAL OF THE SALE OF ALL OR SUBSTANTIALLY ALL
OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL
ENCUMBRANCES OTHER THAN ASSUMED LIABILITIES AND
PERMITTED ENCUMBRANCES, AND THE ASSUMPTION AND
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED
LEASES, (II) APPROVING CERTAIN BIDDING PROCEDURES, AND
ASSUMPTION AND ASSIGNMENT PROCEDURES, AND THE FORM
AND MANNER OF NOTICE THEREOF, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of the above-captioned affiliated debtors and debtors in possession (collectively, the "Debtors"), pursuant to sections 105, 363, 365, 503, and 507 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1 and 6004-1

1. The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number or registration number in the applicable jurisdiction, are: AN Global LLC (5504); AgileThought, Inc. (2509); 4th Source Holding Corp. (9629); 4th Source Mexico, LLC (7552); 4th Source, LLC (7626); AgileThought Brasil-Consultoria Em Tecnologia LTDA (01-42); AgileThought Brasil Servicos de Consultoria Em Software (01-20); AgileThought Costa Rica S.A. (6822); AgileThought Digital Solutions, S.A.P.I. de C.V. (3KR0); AgileThought México S.A. de C.V. (7E46); AgileThought, LLC (7076); AgileThought Servicios Administrativos, S.A. de C.V. (4AG1); AgileThought Servicios México S.A. de C.V. (8MY5); AgileThought, S.A.P.I. de C.V. (No Tax ID); AGS Alpama Global Services USA, LLC (0487); AN Data Intelligence, S.A. de C.V. (8I73); AN Extend, S.A. de C.V. (1D80); AN Evolution, S. de R.L. de C.V. (7973); AN USA (5502); AN UX, S.A. de C.V. (7A42); Cuarto Origen, S. de R.L. de C.V. (0IQ9); Entrepids México, S.A. de C.V. (OCYA); Entrepids Technology Inc. (No Tax ID); Facultas Analytics, S.A.P.I. de C.V. (6G37); Faktos Inc., S.A.P.I. de C.V. (3LLA); IT Global Holding LLC (8776); and QMX Investment Holdings USA, Inc. (9707). The Debtors' headquarters are located at 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039.
2. Capitalized terms used but not defined herein shall have the meanings given them in the Bidding Procedures (as defined below), or to the extent not defined therein, the Motion or the Stalking Horse APA (as defined below).

of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for, *inter alia*, entry of an order (this “Order”): (i) scheduling a hearing (the “Sale Hearing”) on approval of the proposed sale (the “Sale”) of all or substantially all of the Debtors’ assets (the “Assets”) free and clear of all Liens, claims, and interests, other than Assumed Liabilities (as defined in the Stalking Horse APA) to the Stalking Horse Bidder, or any other Successful Bidder (as defined herein), and the assumption and assignment of certain executory contracts and unexpired leases (each, an “Assigned Contract” and collectively, the “Assigned Contracts”); (ii) authorizing and approving certain bidding procedures for the Sale (collectively, the “Bidding Procedures,” a copy of which is attached hereto as **Exhibit 1**), and the form and manner of notice thereof; (iii) approving procedures related to the assumption and assignment of certain executory contracts and unexpired leases, (iv) scheduling an auction for the Assets (the “Auction”); and (v) granting related relief, all as more fully described in the Motion; and the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); 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 having heard the statements in support of the relief requested therein at a hearing before the Court (the “Hearing”); and the Court having determined the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore;

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. This Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012.

B. 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).

C. The statutory and legal predicates for the relief requested in the Motion and provided for herein are (i) sections 105, 363, 365, 503 and 507 of title 11 of the Bankruptcy Code; (ii) Bankruptcy Rules 2002, 6004, 6006, and 9014; and (ii) Local Rules 2002-1 and 6004-1.

D. Good and sufficient notice of the relief granted by this Order has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief granted by this Order (including, without limitation, with respect to the Bidding Procedures) has been afforded to those parties entitled to notice pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1(b).

E. The Sale Notice (as defined below), in substantially in the form attached hereto as **Exhibit 2**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of this Order, the Bidding Procedures, the Auction, the Sale, and the Sale Hearing, and any and all objection deadlines related thereto, and no other or further notice is required of the foregoing.

3. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

F. The Debtors have articulated good and sufficient business reasons for the Court to approve the Bidding Procedures. The Bidding Procedures are: (i) fair, reasonable and appropriate; and (ii) designed to maximize recovery with respect to a Sale or an investment in the form of a Chapter 11 Plan Transaction (as defined in the Bidding Procedures). 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 the Debtors' Assets. The Bidding Procedures comply with the requirements of Local Rule 6004-1(c).

G. The Notice of Assumption, Assignment and Sale (as defined below) (substantially in the form attached hereto as **Exhibit 3**) is appropriate and reasonably calculated to provide counterparties to the Assigned Contracts with timely and proper notice of the potential/intended assumption and assignment of their executory contracts or unexpired leases, and the procedures for the assumption and assignment of the Assigned Contracts, and no other or further notice is required.

H. Entry of this Order is in the best interests of the Debtors, their estates, and creditors and all other interested parties.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The hearing to consider entry of the order approving the Stalking Horse APA and the Expense Reimbursement shall be adjourned to October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) (such hearing, the "Stalking Horse Hearing").
3. Except as expressly provided herein, nothing herein shall be construed as a determination of the rights of any party in interest in these Chapter 11 Cases. Any objections to the Motion as they pertain to the bidding and Auction process or the relief granted by this Order

that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby overruled and denied on the merits with prejudice.

Bidding Procedures

4. The Bidding Procedures attached hereto as **Exhibit 1** are hereby APPROVED. 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 provision, it being this Court's intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to implement the Bidding Procedures.

The Sale Schedule

5. The dates and deadlines below are approved, but may also be modified by the Debtors to the extent permitted under the Bidding Procedures.

| Event | Date |
|---|---|
| Deadline to file Cure Costs Motion | September 15, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Cure Objection Deadline | September 27, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Stalking Horse Hearing and Hearing on Cure Costs Motion | October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) |
| Deadline for Debtors to file a form of Sale Order | [October 26], 2023 at 4:00 p.m. (prevailing Eastern Time), or such date that is seven (7) calendar days in advance of the Sale Objection Deadline |
| Sale Objection Deadline | [November 2], 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Bid Deadline | November 9, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Deadline for Debtors to Designate Qualified Bids and Baseline Bid | November 10, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Auction | November 13, 2023 at 11:00 a.m. (prevailing Eastern Time) |

| Event | Date |
|---|---|
| Debtors' Deadline to Reply to Sale Objections | [November 13], 2023 at 6:00 p.m. (prevailing Eastern Time) |
| Supplemental Sale Objection Deadline | [November 15], 2023 at 10:00 a.m. (prevailing Eastern Time) |
| Sale Hearing | [November 16], 2023 at [●] (prevailing Eastern Time) |

Notice Procedures

6. The Sale Notice, the Notice of Assumption, Assignment and Sale, and any Supplemental Assumption Notice, the Bidding Procedures, the Auction, and the Sale Hearing, and the objection periods associated with each of the foregoing are reasonably calculated to provide notice to any affected party and afford the affected party the opportunity to exercise any rights affected by the Motion as it relates to the Bidding Procedures, the Auction, the Sale, the Sale Hearing, and the assumption and assignment of the Assigned Contracts pursuant to Bankruptcy Rules 2002(a)(2), 6004, and 6006 to the Successful Bidder and such notice and objection periods are hereby approved.

7. The Sale Notice is approved. Within three (3) business days of the entry of this Order, the Debtors shall serve the Sale Notice by regular mail on: (a) the U.S. Trustee for the District of Delaware; (b) counsel to the Committee; (c) counsel to the Agent; (d) counsel to GLAS Americas LLC, as the administrative agent for the prepetition second lien lenders; (e) counsel to the Stalking Horse Bidder; (f) the United States Attorney's Office for the District of Delaware; (g) the state attorneys general for all states in which the Debtors conduct business; (h) all parties to Potential Assigned Contracts; (i) all parties who have expressed to the Debtors or their professionals in writing an interest in acquiring some or all of the Assets; (j) all known holders of liens, encumbrances, and other claims secured by any of the Assets; (k) the Internal Revenue Service; (l) all applicable state and local taxing authorities; (m) the Federal Trade Commission;

(n) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; (o) all of the Debtors' other known creditors and equity security holders; and (p) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002 (collectively, the "Sale Notice Parties").

8. The Debtors shall post the Sale Notice, the Notice of Assumption, Assignment and Sale, and any Supplemental Assumption Notice and this Order on the website of the Debtors' claims and noticing agent. Within seven (7) business days of the entry of this Order, the Debtors shall cause the Sale Notice to be published once in the national edition of USA Today or another nationally circulated newspaper, with any modifications necessary for ease of publication. Publication of the Sale Notice as described in this Order conforms to the requirements of Bankruptcy Rules 2002(l) and 9008, and is reasonably calculated to provide notice to any affected party, including any Interested Parties, and afford the affected party the opportunity to exercise any rights affected by the Motion and the relief granted by this Order.

Sale Objection Procedures

9. Any objections to the Sale or the relief requested in connection with the Sale including, only in the event the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA at the Stalking Horse Hearing, objections related to the adequate assurance of future performance by the Stalking Horse Bidder but not including objections related to cure costs for the Assigned Contracts or general objections to the assumption and assignment of the Assigned Contracts (each a "Sale Objection"), must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) set forth the specific basis for the Sale Objection; (d) be filed with the Clerk of this Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801 **on or before [November 2], 2023 at 4:00 p.m. (prevailing Eastern Time)** (the "Sale Objection Deadline"),

and proof of service of such Sale Objection upon the Objection Notice Parties⁴ shall be filed with the Court as and when required by the Local Rules; and (e) be served upon the Objection Notice Parties; *provided, however*, that the Sale Objection Deadline solely for Sale Objections related to the adequate assurance of future performance of a purchaser that is not the Stalking Horse Bidder or to the conduct of the Auction shall be **on or before [November 15], 2023 at 10:00 a.m. (prevailing Eastern Time)** (the “Supplemental Sale Objection Deadline”). If a Sale Objection is not filed and served on or before the Sale Objection Deadline or Supplemental Sale Objection Deadline, as applicable, in accordance with the foregoing requirements, the objecting party may be barred from objecting to the Sale and being heard at the Sale Hearing, and this Court may enter the Proposed Sale Order without further notice to such party.

10. Failure to object to the relief requested in the Motion shall be deemed to be “consent” for purposes of section 363(f) of the Bankruptcy Code. All objections to the Motion or the relief requested therein (and all reservations of rights included therein), as they pertain to the entry of this Order, are overruled to the extent they have not been withdrawn, waived, or otherwise resolved.

4. The “Objection Notice Parties” and their addresses are as follows: (a) Debtors’ counsel, (i) Hughes Hubbard & Reed LLP, One Battery Park Plaza, 16th Floor, New York, NY 10004 (Attn: Kathryn A. Coleman, Esq. (katie.coleman@hugheshubbard.com), Christopher Gartman, Esq. (chris.gartman@hugheshubbard.com), and Elizabeth A. Beitler, Esq. (elizabeth.beitler@hugheshubbard.com)); and (ii) Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19801 (Attn: Jeremy W. Ryan, Esq. (jryan@potteranderson.com)); (b) counsel to the Agent and Stalking Horse Bidder, (i) Ropes & Gray LLP, 1211 Avenue of the Americas, New York, New York 10036, (Attn: Gregg M. Galardi (Gregg.Galardi@ropesgray.com), Robb Tretter (Robb.Tretter@ropesgray.com), and Leonard Klingbaum (Leonard.Klingbaum@ropesgray.com)) and (ii) Chipman Brown Cicero & Cole, LLP, 1313 N. Market Street Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers (desgross@chipmanbrown.com)); (c) counsel to the Committee, Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801 (Attn: Bradford J. Sandler, Esq. (bsandler@pszjlaw.com) and Colin R. Robinson, Esq. (crobinson@pszjlaw.com)); and (d) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Benjamin Hackman, Esq. (benjamin.a.hackman@usdoj.gov)).

Notice of Successful Bidder

11. The Debtors shall file a Notice of Successful Bidder within twenty-four (24) hours of the conclusion of the Auction and send such notice by overnight mail to all counterparties of all Potential Assigned Contracts (as defined below), and if the Successful Bidder is an entity other than the Stalking Horse Bidder, the Debtors shall include in the Notice of Successful Bidder notice of a status conference regarding scheduling around adequate assurance of future performance on **[November 16], 2023 at [●] (prevailing Eastern Time)** or at the Court's earliest convenience thereafter.

12. As soon as reasonably practicable after the completion of the Auction (if any) the Debtors shall file a final form of order (the "Proposed Sale Order") approving the Sale as agreed upon between the Debtors (in consultation with the Consultation Parties) and the Successful Bidder. If a Successful Bid is a Chapter 11 Plan Bid, the Proposed Sale Order shall, among other things, set proposed dates for (a) the filing of a chapter 11 plan (the "Plan") propounded by the Debtors in consultation with the Successful Bidder and the Consultation Parties, (b) a hearing to consider the disclosure statement with respect to the Plan, and (c) a confirmation hearing with respect to the Plan.

13. In the event that the Successful Bidder does not consummate the Sale and a Back-Up Bidder(s) has been previously identified, the Debtors shall file and serve a notice of the Debtors' intent to proceed with the Back-Up Bid.

Assumption and Assignment Procedures

14. The form of notice to counterparties to all Potential Assigned Contracts (the "Notice of Assumption, Assignment and Sale") attached hereto as **Exhibit 3** is hereby authorized, approved, and made part of this Order as if fully set forth herein.

15. The following procedures for assumption and assignment of executory contracts and unexpired leases (the “Assumption Procedures”) are hereby approved:

- a. **Motion to Set Cure Costs.** On September 15, 2023, the Debtors filed a motion (such motion the “Cure Costs Motion”) through which the Debtors seek entry of an order (the “Cure Costs Order”) fixing monetary amounts that the Debtors would be obligated to pay in connection with the assumption or the assumption and assignment of all of the Debtors’ executory contracts and unexpired leases (the “Potential Assigned Contracts”) and to elicit any objection to the assumption and assignment of such Potential Assigned Contracts other than objections based on adequate assurance of future performance. The Debtors set the Cure Costs Motion for hearing on October 4, 2023. The Cure Costs Motion includes (i) the title of each Potential Assigned Contract, (ii) the name of the counterparty to the Potential Assigned Contract, (iii) Debtors’ proposed Cure Costs (if any) required in connection with the Potential Assigned Contract, and (iv) the deadline to object to the Debtors’ proposed Cure Costs.
- b. **Notice of Assumption, Assignment and Sale.** No later than three (3) business days prior to the Bid Deadline (the “Assumption, Assignment and Sale Service Deadline”), the Debtors shall serve the Notice of Assumption, Assignment and Sale via overnight delivery on all counterparties to executory contracts and unexpired leases of the Debtors which may be assumed and assigned in connection with the Sale (collectively, the “Assigned Contracts”) ⁵ and file the same with the Court. The Notice of Assumption, Assignment and Sale shall inform each recipient of (i) the timing and procedures relating to such assumption, assignment and sale, (ii) the title of the Potential Assigned Contract, and (iii) the name of the counterparty to the Potential Assigned Contract; *provided, however*, that service of a Notice of Assumption, Assignment and Sale does not constitute an admission that such Potential Assigned Contract is an executory contract or unexpired lease or that such stated Cure Cost constitutes a claim against the Debtors or a right against the Successful Bidder and all rights with respect thereto shall be expressly reserved. Further, the inclusion of a Potential Assigned Contract on the Notice of Assumption, Assignment and Sale is not a guarantee that such Potential Assigned Contract will ultimately be assumed, assigned and sold.

As set forth above, within three (3) business days of the entry of this Order, the Debtors shall serve the Sale Notice on the Sale Notice Parties, including all parties to Potential Assigned Contracts.

- c. **Objections.** Any counterparty to a Potential Assigned Contract shall file and serve objections with respect to the Cure Costs Motion in accordance with the Cure Costs Motion. Any counterparty to a Potential Assigned Contract shall file and serve on the Objection Notice Parties any objection to the proposed assumption and assignment of the Potential Assigned Contracts on the basis of adequate assurance

⁵ In the event the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA at the Stalking Horse Hearing, the Assigned Contracts shall be those designated by the Stalking Horse Bidder in accordance with the Stalking Horse APA.

of future performance to (i) the Stalking Horse Bidder, if applicable, by no later than the Sale Objection Deadline, and (ii) to any other Successful Bidder by no later than [November 15, 2023] at 10:00 a.m. (prevailing Eastern Time). If no objection is timely filed and served, (x) the counterparty to the Potential Assigned Contract shall be deemed to have consented to the assumption, assignment and sale of the Contract to the Successful Bidder pursuant to sections 363 and 365 of the Bankruptcy Code if such Potential Assigned Contract is designated by the Successful Bidder as an Assigned Contract, and shall be forever barred from asserting any objection with regard to such assumption, assignment and sale, except with respect to the adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Bidder.

- d. **Supplemental Contract Assumption Notice.** To the extent the Stalking Horse Bidder, if applicable, at any time after the Assumption, Assignment and Sale Service Deadline (i) identifies additional Assigned Contracts, or (ii) removes Assigned Contracts from the list of executory contracts and unexpired leases ultimately selected as Assigned Contracts, the Debtors will promptly file with this Court and serve by overnight delivery a supplemental notice of contract assumption (a “Supplemental Assumption Notice”) on each of the counterparties to the affected Potential Assigned Contracts and their counsel of record, if any. Each Supplemental Assumption Notice will include the same information with respect to listed Potential Assigned Contracts as was included in the Notice of Assumption, Assignment and Sale. Each Supplemental Assumption Notice that identifies a Potential Assigned Contract that was not previously designated to be assumed, assigned and sold shall provide a deadline of not less than seven (7) business days from the date of service of such Supplemental Assumption Notice by which the counterparty to any such Potential Assigned Contract may object only to its listing as an Assigned Contract (if it was not previously designated to be assigned).
- e. **Supplemental Adequate Assurance Objection Deadline.** Following the Bid Deadline, in the event that the Debtors receive one or more Qualified Bids other than the Stalking Horse APA (to the extent authorized), upon request by any counterparty to a Potential Assigned Contract, the Debtors will send such party evidence that any Qualified Bidder that included such Potential Assigned Contract in its Bid has the ability to perform thereunder and otherwise complies with the requirements of adequate assurance of future performance under section 365(b)(1) of the Bankruptcy Code on a confidential basis for all nonpublic information. Consistent with Paragraph 11 of the Bidding Procedures Order, the Debtors shall file a Notice of Successful Bidder within twenty-four (24) hours of the conclusion of the Auction and send such notice by overnight mail to all counterparties of Potential Assigned Contracts, which shall set forth, among other things, (i) the Successful Bidder and Back-Up Bidder (if any) and the amount of each of the Successful Bid and the Back-Up Bid (if any), (ii) the Assigned Contracts the Successful Bidder intends to assume, and (iii) the proposed assignee(s) of such Assigned Contracts. To the extent the Successful Bidder is not the Stalking Horse Bidder, the non-debtor counterparties to the Assigned Contracts shall have until 10:00 a.m. on [November 15, 2023] to file any objections to adequate assurance of future performance by the Successful Bidder.

- f. **Contract Assumption.** No Assigned Contract shall be deemed assumed, assigned and sold pursuant to sections 365 and 363 of the Bankruptcy Code until the later of (i) the date the Court has entered an order assuming, assigning and selling such Assigned Contracts or (ii) the date the Sale has closed.

16. The Successful Bidder shall be responsible for paying any Cure Costs for an Assigned Contract that is assumed and assigned and for satisfying any requirements regarding adequate assurance of future performance that may be imposed under section 365(b) of the Bankruptcy Code in connection with the proposed assignment of any Assigned Contract, and the failure to provide adequate assurance of future performance to any counterparty to any Assigned Contract shall not excuse the Successful Bidder from performance of any and all of its obligations pursuant to the Successful Bidder's asset purchase agreement.

17. The Debtors' decision to assume and assign the Assigned Contracts to the Successful Bidder, is subject to this Court's approval and the closing of the Sale. Accordingly, absent this Court's approval and the closing of the Sale, the Assigned Contracts shall not be assumed or assumed and assigned and shall in all respects be subject to further administration by the Debtors and their estates under the Bankruptcy Code in connection with these Chapter 11 Cases.

18. Nothing herein shall restrict the ability of the Debtors to reject or terminate a contract or lease that has not been designated as an Assigned Contract as of the Closing Date, except to the extent provided in the asset purchase agreement that is the Successful Bid.

Other Relief Granted

19. If the Debtors timely receive more than one Qualified Bid, then the Debtors shall conduct the Auction on **November 13, 2023 at 11:00 a.m. (prevailing Eastern Time)**, at the offices of Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, New York 10004 or virtually via telephone or video conference pursuant to information to be timely provided by the

Debtors to the Auction Participants (as defined below). Only the Debtors, the Auction Bidders, the Consultation Parties, and any creditors of the Debtors, together with the professional advisors to each of the foregoing parties, may attend the Auction (collectively, the “Auction Participants”); *provided* that any such creditors provide counsel for the Debtors written notice of their intent to attend the Auction no later than 5:00 p.m. (ET) the day prior to the Auction.

20. The Debtors shall have until **[November 13], 2023 at 4:00 p.m. (prevailing Eastern Time)** to file and serve a reply to any objection filed in connection with the Sale that is duly filed by **[November 2], 2023 at 4:00 p.m. (prevailing Eastern Time)**, and shall have until the Sale Hearing to reply to any objections filed or asserted thereafter.

21. The Sale Hearing shall be held in this Court on **[November 16], 2023 at [●] (prevailing Eastern Time)**, unless otherwise determined by this Court. The Sale Hearing may be adjourned by the Debtors, the Consultation Parties, and the Successful Bidder, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing, or by filing a hearing agenda or notice on the docket of these Chapter 11 Cases.

22. All persons and entities that participate in the Auction or bid for any Asset during the Sale 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; *provided* that, notwithstanding anything contained in this Order, nothing herein alters or impacts any party in interest's rights with respect to which judicial forum is the appropriate judicial forum for a lawsuit or proceeding arising under the Prepetition 1L Credit Agreement (as defined in the DIP Order).

23. The Debtors are authorized to conduct the Sale without the necessity of complying with any state or local bulk transfer laws or requirements.

24. In the event that there is a conflict between this Order or the Bidding Procedures, on the one hand, and the Motion, or the Successful Bidder's asset purchase agreement (including the Stalking Horse APA, if applicable), on the other hand, this Order and the Bidding Procedures shall control and govern. If there is a conflict between this Order and the Bidding Procedures, this Order shall control and govern. If there is a conflict between this Order or the Bidding Procedures, on the one hand, and any notice served in connection with the Motion or this Order, on the other hand, this Order and the Bidding Procedures shall control and govern.

25. Cigna Health and Life Insurance Company and the Debtors are parties to two contracts (jointly, the "Cigna Contracts"), pursuant to which Cigna provides ongoing insurance and administrative services relating to the Debtors' self-funded employee healthcare benefits plan. Notwithstanding anything in this Order to the contrary, unless Cigna and the Debtors agree otherwise, the Debtors shall provide to Cigna, through its counsel of record, no later than one (1) business days following conclusion of the Auction, but in no event later than the start of the Sale Hearing, written notice of Debtors' irrevocable (subject to closing of the proposed Sale) decision as to whether or not the Debtors propose to assume and assign the Cigna Contracts to the Successful Bidder as part of the proposed Sale.

26. Prior to mailing the Sale Notice, the Notice of Assumption, Assignment and Sale, and any Supplemental Assumption Notice, the Debtors may fill in, or cause to be filled in, any missing dates and other information, correct any typographical errors, conform the provisions thereof to the provisions of this Order, and make such other, non-material changes as the Debtors deem necessary or appropriate.

27. This Order shall be effective immediately upon entry, and any stay of orders provided for in Bankruptcy Rules 6004(h) or 6006(d) or any other provision of the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules is expressly waived. The Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order, and may, in their sole discretion and without further delay, take any action and perform any act authorized or approved under this Order.

28. The requirements set forth in Local Rules 6004-1, 9006-1, and 9013-1 are hereby satisfied or waived.

29. The Debtors are authorized to take all steps necessary or appropriate to implement the relief granted in this Order.

30. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation or interpretation of the Order.

EXHIBIT 1

Bidding Procedures

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

In re

AN GLOBAL LLC, et al.,¹

Debtors.

Chapter 11

Case No. 23-11294 (JKS)

(Jointly Administered)

BIDDING PROCEDURES

On August 28, 2023 (the “Petition Date”), the above-captioned debtors and debtors in possession (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”). The Debtors are maintaining their business and managing their property as debtors in possession pursuant to section 1107(a) and 1108 of the Bankruptcy Code.

On [●], 2023, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an order [Docket No. ●] (the “Bidding Procedures Order”), among other things, granting certain relief requested in the related motion [Docket No. 72] (the “Bidding Procedures Motion”), including authorizing the Debtors to solicit bids and approving the procedures set forth herein (collectively, the “Bidding Procedures”) to be employed by the Debtors in connection with the proposed sale (the “Sale”) of all or substantially all of the Debtors’ assets (the “Assets”), free and clear of all encumbrances other than Assumed Liabilities² pursuant to the asset purchase agreement with the Successful Bidder.

The Debtors are also seeking authorization to enter into an Asset Purchase Agreement with an entity organized and controlled by the Agent (as defined herein) (the “Stalking Horse Bidder”)

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1. The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number or registration number in the applicable jurisdiction, are: AN Global LLC (5504); AgileThought, Inc. (2509); 4th Source Holding Corp. (9629); 4th Source Mexico, LLC (7552); 4th Source, LLC (7626); AgileThought Brasil-Consultoria Em Tecnologia LTDA (01-42); AgileThought Brasil Servicos de Consultoria Em Software (01-20); AgileThought Costa Rica S.A. (6822); AgileThought Digital Solutions, S.A.P.I. de C.V. (3KR0); AgileThought México S.A. de C.V. (7E46); AgileThought, LLC (7076); AgileThought Servicios Administrativos, S.A. de C.V. (4AG1); AgileThought Servicios México S.A. de C.V. (8MY5); AgileThought, S.A.P.I. de C.V. (No Tax ID); AGS Alpama Global Services USA, LLC (0487); AN Data Intelligence, S.A. de C.V. (8I73); AN Extend, S.A. de C.V. (1D80); AN Evolution, S. de R.L. de C.V. (7973); AN USA (5502); AN UX, S.A. de C.V. (7A42); Cuarto Origen, S. de R.L. de C.V. (0IQ9); Entrepids México, S.A. de C.V. (OCYA); Entrepids Technology Inc. (No Tax ID); Facultas Analytics, S.A.P.I. de C.V. (6G37); Faktos Inc., S.A.P.I. de C.V. (3LLA); IT Global Holding LLC (8776); and QMX Investment Holdings USA, Inc. (9707). The Debtors’ headquarters are located at 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039.
 2. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Bidding Procedures Order.

in substantially the form attached to the Bidding Procedures Motion an Exhibit 2 (the “Stalking Horse APA”). The hearing to consider entry of an order authorizing, inter alia, the Debtors to enter into the Stalking Horse APA will be held before the Bankruptcy Court on October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) (the “Stalking Horse Hearing”).

These Bidding Procedures also provide that the Debtors, in consultation with the Consultation Parties (as defined herein), may consider competing bids (each, a “Chapter 11 Plan Bid”) in the form of a chapter 11 plan of reorganization (a “Chapter 11 Plan Transaction”), subject to the requirements set forth herein.

ANY PARTY INTERESTED IN BIDDING ON THE ASSETS SHOULD CONTACT:

- (A) **THE INVESTMENT BANKER FOR THE DEBTORS, GUGGENHEIM SECURITIES, LLC, 330 MADISON AVENUE, NEW YORK, NY 10017 (ATTN: STEPHEN PREEFER (STEPHEN.PREEFER@GUGGENHEIMPARTNERS.COM), JIM SUPRENANT (JIM.SUPRENANT@GUGGENHEIMPARTNERS.COM), AND SCOTT GREEN (SCOTT.GREEN@GUGGENHEIMPARTNERS.COM)); AND**
- (B) **COUNSEL FOR THE DEBTORS, HUGHES HUBBARD & REED LLP, HUGHES HUBBARD & REED LLP, ONE BATTERY PARK PLAZA, 16TH FLOOR, NEW YORK, NY 10004 (ATTN: KATHRYN A. COLEMAN, ESQ. (KATIE.COLEMAN@HUGHESHUBBARD.COM), CHRISTOPHER GARTMAN, ESQ. (CHRIS.GARTMAN@HUGHESHUBBARD.COM), AND ELIZABETH A. BEITLER, ESQ. (ELIZABETH.BEITLER@HUGHESHUBBARD.COM)).**

Summary of Key Dates Established by Bidding Procedures

| Event | Date |
|--|---|
| Deadline to file Cure Costs Motion | September 15, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Cure Objection Deadline | September 27, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Stalking Horse Hearing and Hearing on Cure Costs Motion | October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) |
| Deadline for Debtors to file an initial form of Sale Order | [October 26], 2023 at 4:00 p.m. (prevailing Eastern Time), or such date that is seven (7) calendar days in advance of the Sale Objection Deadline |
| Sale Objection Deadline | [November 2], 2023 at 4:00 p.m. (prevailing Eastern Time) |

| Event | Date |
|---|---|
| Bid Deadline | November 9, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Deadline for Debtors to Designate Qualified Bids and Baseline Bid | November 10, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Auction | November 13, 2023 at 11:00 a.m. (prevailing Eastern Time) |
| Debtors' Deadline to Reply to Sale Objections | [November 13], 2023 at 6:00 p.m. (prevailing Eastern Time) |
| Supplemental Sale Objection Deadline | [November 15], 2023 at 10:00 a.m. (prevailing Eastern Time) |
| Sale Hearing | [November 16], 2023 at [●] (prevailing Eastern Time) |

Assets to be Sold

The Debtors are offering for sale the Assets, *provided* that the Debtors, in consultation with the Consultation Parties, determine that the aggregate consideration offered by any bid, or combination of bids, for the Assets, satisfies the requirements set forth in these Bidding Procedures. Qualified Bidders may bid on all or any number or combination of the Assets.

Participation Requirements

To receive due diligence information, including full access to the Debtors' electronic data room (the "Data Room") and to additional non-public information regarding the Debtors, a potential bidder (each, an "Interested Party") must have delivered to each of: (i) counsel to the Debtors: (a) Hughes Hubbard & Reed LLP, One Battery Park Plaza, 16th Floor, New York, NY 10004 (Attn: Kathryn A. Coleman, Esq. (katie.coleman@hugheshubbard.com), Christopher Gartman, Esq. (chris.gartman@hugheshubbard.com), and Elizabeth A. Beitler, Esq. (elizabeth.beitler@hugheshubbard.com)); and (b) Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19801 (Attn: Jeremy W. Ryan, Esq. (jryan@potteranderson.com)); and (ii) investment banker to the Debtors: Guggenheim Securities, LLC, 330 Madison Avenue, New York, NY 10017 (Attn: Stephen Preefer (Stephen.Preefer@guggenheimpartners.com), Jim Suprenant (Jim.Suprenant@guggenheimpartners.com), and Scott Green (Scott.Green@guggenheimpartners.com)), the following documents (the "Preliminary Bid Documents"):

- (a) documentation identifying the Interested Party, its principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) an executed confidentiality agreement in form and substance satisfactory to the Debtors;

- (c) a statement and other factual support demonstrating to the Debtors' reasonable satisfaction, after consultation with the Consultation Parties, that the Interested Party has a bona fide interest in consummating a transaction involving the Assets; and
- (d) sufficient information, as determined by the Debtors, after consultation with the Consultation Parties, to allow the Debtors to determine that the Interested Party (x) has, or can obtain, the financial wherewithal and any required internal corporate, legal, or other authorizations to close a transaction for the Assets, including, but not limited to, current audited financial statements of the Interested Party (or such other form of financial disclosure acceptable to the Debtors in their discretion), and (y) can provide adequate assurance of future performance under any executory contracts and unexpired leases to be assumed by the Debtors and assigned to Interested Party, pursuant to section 365 of the Bankruptcy Code, in connection with the Sale.

Only those Interested Parties who have submitted acceptable Preliminary Bid Documents (each, a "Qualified Bidder") may submit bids.

For the avoidance of doubt, notwithstanding anything to the contrary herein, in the event the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA for all purposes under the Bidding Procedures: (i) the Stalking Horse Bidder is not required to provide any of the foregoing Preliminary Bid Document; (ii) the Stalking Horse Bidder shall be considered a Qualified Bidder; and (iii) the Stalking Horse APA shall be considered a Qualified Bid, without regard to any of the requirements or conditions set forth herein and without any other or further action by the Stalking Horse Bidder.

Additionally, in determining whether Interested Parties constitute Qualified Bidders, the Debtors, in consultation with the Consultation Parties, may consider a combination of bids for the Assets.

Bankruptcy Court Jurisdiction

Any Interested Parties and Qualified Bidders shall: (a) be deemed to have waived any right to a jury trial in connection with, and consented and submitted to the exclusive jurisdiction of the Court over, any actions or proceedings arising from or relating the Bidding Procedures, the Sale, the Auction, and the construction and enforcement of the contemplated transaction documents of such parties; (b) bring any such action or proceeding in the Court; and (c) be deemed to have consented to the Court entering a final judgment determining any such action or proceeding and that such final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law.

Due Diligence

The Debtors will provide any Qualified Bidder with reasonable access to the Data Room and any other additional information that the Debtors believe to be reasonable and appropriate

under the circumstances. All additional due diligence requests shall be directed to: (a) investment banker for the Debtors, Guggenheim Securities, LLC; or (b) counsel for the Debtors, Hughes Hubbard & Reed LLP.

The due diligence period shall extend through and including the Bid Deadline. The Debtors, in their business judgment, may, but shall not be obligated to, furnish any due diligence information after the Bid Deadline.

The Debtors reserve the right, in their reasonable discretion, to withhold or limit access to any due diligence information that the Debtors determine is business-sensitive or otherwise not appropriate for disclosure to a Qualified Bidder. Notwithstanding any prepetition limitations, including, without limitation, any non-disclosure, confidentiality, or similar provisions relating to any due diligence information, the Debtors and their estates shall be authorized to provide due diligence information to Interested Parties *provided* that such Interested Parties have delivered an executed confidentiality agreement in form and substance acceptable to the Debtors. The Debtors and their estates are not responsible for, and shall have no liability with respect to, any information obtained by, or provided to, any Interested Parties in connection with the Bidding Procedures and the Sale.

Bid Requirements

To be deemed a “Qualified Bid,” a bid must be received from a Qualified Bidder by each of the Bid Notice Parties (as defined herein) on or before the Bid Deadline and include the following items:

- (a) a letter stating that the Qualified Bidder’s offer is irrevocable until consummation of a transaction involving the Assets (or lot thereof) identified in such offer (such Assets, the “Bid Assets”);
- (b) other than for any Chapter 11 Plan Bid, a duly authorized and executed purchase agreement based on the form purchase agreement provided by the Debtors (through their advisors), marked to show any revisions, including, among other things, the purchase price for the Bid Assets, together with all exhibits and schedules thereto (including, among other things, a proposed form of order approving the transaction(s) contemplated in such purchase agreement). For the avoidance of doubt, a “conceptual” or “issues list”-style markup of the form asset purchase agreement would not satisfy this requirement;
- (c) each Chapter 11 Plan Bid must be accompanied by an executed investment agreement, signed by an authorized representative of such bidder, pursuant to which the bidder proposes to effectuate the Chapter 11 Plan Transaction, in the form of a non-taxable recapitalization transaction effectuated pursuant to a chapter 11 plan of reorganization, and must provide for a fully-committed investment of capital in exchange for substantially all of the equity of the reorganized Debtors;
- (d) written evidence acceptable to the Debtors, in their discretion and in consultation with the Consultation Parties, demonstrating financial wherewithal, operational

ability, and corporate authorization to consummate the proposed transaction;

- (e) a written acknowledgment that the Qualified Bidder (i) has had an opportunity to conduct any and all due diligence regarding the Bid Assets, the Sale, and/or a Chapter 11 Plan Transaction, (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and any other information in making the bid, (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, by the Debtors or any of their advisors or other representatives, including, without limitation, the Debtors' investment banker, Guggenheim Securities, LLC, regarding the bid, the Bid Assets, the Sale, the Chapter 11 Plan Transaction, or the completeness or accuracy of any information provided in connection therewith or with the Auction, except as expressly stated in these Bidding Procedures, and (iv) the Qualified Bidder did not engage in any collusive conduct and acted in good faith in submitting its bid; and
- (f) 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, in either case which is satisfactory to the Debtors in their discretion, in consultation with the Consultation Parties.

A bid will be considered only if the bid:

- (a) fully discloses 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 Qualified Bidder, including if such Qualified Bidder is an entity formed for the purpose of consummating the proposed transaction contemplated by such bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any bid. Each bid must also include contact information for the specific person(s) and counsel whom the Debtors or their advisors should contact regarding such bid. Nothing herein shall preclude multiple Qualified Bidders from submitting a joint bid, subject to the Debtors' prior written consent to such submission and the disclosure requirements set forth herein.
- (b) other than for a Chapter 11 Plan Bid, identifies the Bid Assets to be purchased and the contracts and leases to be assumed;
- (c) other than for a Chapter 11 Plan Bid, identifies the liabilities of the Debtors or the Bid Assets to be assumed;
- (d) includes a statement of proposed terms for employees;
- (e) sets forth the consideration, including the form thereof, for the Bid Assets to be purchased and the executory contracts and unexpired leases to be assumed (the "Bid Value"); *provided* that, if the Debtors are authorized to enter into the Stalking Horse APA at the Stalking Horse Hearing, the Bid Value must be at least equal to the following: (i) \$100,000,000; plus (ii) assumption of those Assumed Liabilities

provided for in the Stalking Horse APA; plus (iii) to the extent approved at the Stalking Horse Hearing, the Expense Reimbursement, plus (iv) cash equal to the amount of any increase in the transaction fee due to Debtors' investment banker, Guggenheim Securities, LLC, that would be payable on account of the consummation of a sale based on the Bid Value; plus (v) the minimum overbid amount of \$250,000;

- (f) allocates the Bid Value among the Bid Assets and Contracts and Leases to be assumed (per lot of Assets);
- (g) is not conditioned on (i) obtaining financing or (ii) the outcome of unperformed due diligence;
- (h) includes a description of all governmental, licensing, regulatory, or other approvals or consents that are required to consummate the proposed transaction (including any antitrust approval related to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended), together with evidence satisfactory to the Debtors, in consultation with the Consultation Parties, of the ability to obtain such approvals or consents as soon as reasonably practicable, and in no event later than November 17, 2023 at 5:00 p.m. (prevailing Eastern Time), 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;
- (i) provides for the Qualified Bidder to serve as a backup bidder (the "Back-Up Bidder") if the Qualified Bidder's bid is the next highest and best bid (the "Back-Up Bid") after the Successful Bid, in accordance with the terms of the Successful Bidder's asset purchase agreement;
- (j) includes a signed writing stating that the Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder, provided that if such Qualified Bidder is selected as the Successful Bidder (as defined below) or the Back-Up Bidder, its offer shall remain irrevocable until the later of (i) the closing of the transaction with the Successful Bidder, and (ii) November 27, 2023;
- (k) 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 ten percent of the Bid Value (any such deposit, a "Good Faith Deposit");³
- (l) sets forth the representatives that are authorized to appear and act on behalf of the Qualified Bidder in connection with the proposed transaction;
- (m) indicates that the Qualified Bidder will not seek any transaction or break-up fee, expense reimbursement, or similar type of payment and that it waives any

3. For the avoidance of doubt, to the extent the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA at the Stalking Horse Hearing, the retention and return of the Deposit Amount (as defined in the Stalking Horse APA) by the Debtors shall be determined in accordance with the Stalking Horse APA.

substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code;

- (n) includes evidence of the Qualified Bidder's ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Qualified 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 Qualified Bidder, in a form that will permit the Debtors to disseminate immediately such evidence to the non-Debtor counterparties to such contracts and leases;
- (o) indicates whether or not the Qualified Bidder will assume all cure costs associated with any executory contracts and unexpired leases it intends to assume;
- (p) include written evidence of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, and delivery of the Qualified Bidder's asset purchase agreement;
- (q) state or otherwise estimate the types of, and costs or charges for, transition services, if any, the Qualified Bidder would require of or provide to the Debtors, including an estimate of the time any such transition services would be required of or provided to the Debtors;
- (r) provide that in the event of the Qualified Bidder's breach of, or failure to perform under, the Qualified Bidder's asset purchase agreement, the Debtors and their estates shall be entitled to pursue all available legal and equitable remedies, including, without limitation, retention of the Good Faith Deposit as part of the damages resulting to the Debtors and their estates for such breach or failure to perform; and
- (s) includes a commitment to close no later than the date that is 90 days following the Petition Date.

A bid from a Qualified Bidder satisfying all of the above requirements, as determined by the Debtors, in consultation with the Consultation Parties, shall constitute a Qualified Bid. The Debtors reserve the right to work with any Qualified Bidder in advance of the Auction to cure any deficiencies in a bid that is not initially deemed a Qualified Bid. The Debtors will be authorized to approve joint bids in their reasonable discretion, in consultation with the Consultation Parties, on a case-by-case basis.

Each Qualified Bidder submitting a bid shall be deemed to: (a) acknowledge and represent that it is bound by all of the terms and conditions of the Bidding Procedures; and (b) have waived the right to pursue a substantial contribution claim under section 503 of the Bankruptcy Code related in any way to the submission of its bid, the Bidding Procedures, and the Sale.

Bid Deadline

A Qualified Bidder that desires to make a bid shall deliver a written and electronic copy of its bid in both PDF and MS-WORD format to the Bid Notice Parties and the Consultation Parties so as to be received on or before **November 9, 2023 at 5:00 p.m. (prevailing Eastern Time)** (the “**Bid Deadline**”); *provided* that the Debtors may extend the Bid Deadline without further order of the Court, subject to the DIP Credit Agreement and, to the extent approved, the Stalking Horse APA and after consultation with the Consultation Parties. To the extent that the Bid Deadline is extended for all relevant parties, the Debtors shall file a notice on the docket of the Chapter 11 Cases indicating the same. **Any party that does not submit a bid by the Bid Deadline will not be allowed to (a) submit any offer after the Bid Deadline, or (b) participate in the Auction.**

Evaluation of Qualified Bids

The Debtors, in consultation with the Consultation Parties, shall make a determination regarding whether a timely submitted bid from a Qualified Bidder is a Qualified Bid.

No later than November 10, 2023 at 5:00 p.m. (prevailing Eastern Time), the Debtors shall: (i) notify all Qualified Bidders whether their respective bids have been determined to be Qualified Bids; and (ii) determine, in consultation with the Consultation Parties, which of the Qualified Bids, at such time, is the highest or best bid for purposes of constituting the opening bid at the Auction (the “**Baseline Bid**”), and the Bid Notice Parties and all Qualified Bidders with Qualified Bids of the Baseline Bid.

No Qualified Bids

To the extent the Debtors are authorized to enter into the Stalking Horse APA at the Stalking Horse hearing, if no timely Qualified Bids other than the Stalking Horse APA are submitted on or before the Bid Deadline, the Debtors shall not hold an Auction and shall request at the Sale Hearing that the Court approve the Stalking Horse APA and the transactions contemplated thereunder.

Auction

If the Debtors timely receive more than one Qualified Bids (including, if approved, the Stalking Horse APA) then the Debtors shall conduct an auction (the “**Auction**”). Following the Auction, the Debtors will determine, in consultation with the Consultation Parties, which Qualified Bid is the highest or best bid for the Assets, which will be determined by considering, among other things, the following non-binding factors: (a) 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, (b) the anticipated timing to closing; (c) if applicable, the number, type, and nature of any changes to the Stalking Horse APA requested by each Qualified Bidder; (d) the extent to which such modifications are likely to delay closing of the Sale and the cost to the Debtors and their estates of such modifications or delay; (e) in the case of a Chapter 11 Plan Transaction, the structure, confirmability, and feasibility of any proposed chapter 11 plan (including the proposed time and costs estimated to be necessary to negotiate, document, and obtain confirmation of such proposed

chapter 11 plan); (f) the total consideration to be received by the Debtors and their estates; and (g) any other factors the Debtors may reasonably deem relevant.

The Auction shall be governed by the following procedures:

- (a) the Auction shall be held on **November 13, 2023 at 11:00 a.m. (prevailing Eastern Time)** at the offices of Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, NY 10004 or virtually via telephone or video conference pursuant to information to be timely provided by the Debtors to the Auction Participants (as defined below);
- (b) only Qualified Bidders with Qualified Bids (together, the “Auction Bidders”) shall be entitled to make any subsequent bids at the Auction;
- (c) the Auction Bidders shall appear at the Auction, or through a duly authorized representative;
- (d) only the Debtors, the Auction Bidders, the Consultation Parties, and any creditors of the Debtors, together with the professional advisors to each of the foregoing parties, may attend the Auction (collectively, the “Auction Participants”); *provided* that any such creditors provide counsel for the Debtors written notice of their intent to attend the Auction no later than 5:00 p.m. (ET) the day prior to the Auction;
- (e) the Debtors, with the assistance of their professional advisors, shall direct and preside over the Auction, which shall be transcribed;
- (f) prior to start of the Auction, each of the Auction Bidders shall confirm that they have not engaged in any collusion with respect to the Bidding Procedures, the Auction, or the Sale;
- (g) the Auction shall be conducted in an open-cry format (and not by way of sealed bids);
- (h) during the Auction, bidding will begin initially with the Baseline Bid and subsequently continue in minimum increments of at least \$250,000 in cash (each, an “Overbid”); *provided, however*, that, if applicable, the Stalking Horse Bidder may satisfy the minimum bid increment requirement by credit bidding at least \$250,000 of outstanding Prepetition 1L Obligations and DIP Obligations (each as defined in the DIP Motion) (up to the amount outstanding as of the projected closing date of the Sale (including but not limited to, principal, accrued and unpaid interest, and all outstanding fees and expenses and other amounts owed under the Prepetition 1L Credit Agreement and the DIP Documents (each as defined in the DIP Motion), respectively) that do not already form a part of the purchase price under the Stalking Horse APA as well as credit bidding the Expense Reimbursement (up to the amount of the Stalking Horse Bidder’s estimate of amount incurred as of the date of the Auction). The Debtors will announce at the Auction the material terms of each Overbid, value each Overbid in accordance with these Bid Procedures and provide each Qualified Bidder with an opportunity

to make a subsequent Overbid. Subject to the requirement (other than with regard to the Stalking Horse Bidder, if applicable) that each Overbid include at least \$250,000 in cash more than the cash component of the Baseline Bid or prevailing Overbid, additional consideration in excess of the amount set forth in the Baseline Bid or the prevailing Overbid may include cash and/or other consideration in accordance with these procedures. To the extent that an Overbid has been accepted entirely or in part because of the addition, deletion, or modification of a provision or provisions in the applicable Transaction Documents or the Stalking Horse APA, the Debtors will provide notice to each participant of the value ascribed by the Debtors to any such added, deleted, or modified provision or provisions, with such value being determined by the Debtors in consultation with the Consultation Parties;

- (i) any Overbid made from time to time by a Qualified Bidder must remain open and binding on the Qualified Bidder until and unless (i) the Debtors accept a bid submitted by another Qualified Bidder during the Auction as an Overbid and (ii) such prior Overbid is not selected as the Back-Up Bid. To the extent not previously provided (which will be determined by the Debtors in consultation with the Consultation Parties), a Qualified Bidder submitting an Overbid must submit at the Debtors' request (in consultation with the Consultation Parties), 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) demonstrating such Qualified Bidder's ability to close the transaction at the purchase price contemplated by such Overbid;
- (j) the Auction may include individual negotiations with any of the Auction Bidders, but all bids shall be made on the record and in the presence of all of the Auction Bidders;
- (k) all material terms of the bid that is deemed to be the highest and best bid for each round of bidding shall be fully disclosed to the Auction Bidders, and the Debtors shall use reasonable efforts to address any and all questions that the Auction Bidders may have regarding the Debtors' announcement of the then-current highest and best bid;
- (l) except as specifically set forth herein, for the purpose of evaluating the value of the purchase price for the Bid Assets provided by each successive bid (including any successive bid by the Stalking Horse Bidder, if applicable), the Debtors, in consultation with the Consultation Parties, may give effect to any additional liabilities to be assumed by a Qualified Bidder, and any additional costs which may be imposed on the Debtors;
- (m) each Auction Bidder shall (i) be deemed to have waived any right to a jury trial in connection with, and consented and submitted to the exclusive jurisdiction of the Court over, any actions or proceedings arising from or relating the Bidding Procedures, the Sale, the Auction, and the construction and enforcement of the contemplated transaction documents of the Auction Bidders, (ii) bring any such

action or proceeding in the Court, and (iii) be deemed to have consented to the Court entering a final judgment determining any such action or proceeding and that such final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law;

- (n) the Auction Bidders shall have the right to make additional modifications to the Stalking Horse APA or any alternative asset purchase agreement, as applicable, in conjunction with each Qualified Bid submitted in each round of bidding during the Auction, provided that (i) any such modifications on an aggregate basis and viewed in whole, shall not, in the Debtors' discretion, in consultation with the Consultation Parties, be less favorable to the Debtors and their estates than the terms of the Stalking Horse APA, if applicable, and (ii) each Qualified Bid shall constitute an irrevocable offer and shall be binding on the Auction Bidder submitting such bid until such party shall have submitted a subsequent Qualified Bid at the Auction or the conclusion of the Sale Hearing, whichever occurs sooner, unless such bid is selected as the Successful Bid or the Back-Up Bid, which shall remain binding as provided for herein;
- (o) the Debtors and the Consultation Parties shall have the right to request any additional financial information that will allow the Debtors and the Consultation Parties to make a reasonable determination as to an Auction Bidder's financial and other capabilities to consummate the transactions contemplated by the Stalking Horse APA or any Alternative APA, as applicable, as may be amended during the Auction, and any further information that the Debtors may believe is reasonably necessary to clarify and evaluate any bid made by an Auction Bidder during the Auction;
- (p) upon the conclusion of the Auction, the Debtors shall determine, in consultation with the Consultation Parties, and subject to Court approval, the offer or offers for the Assets that is or are the highest or best from among the Qualified Bids submitted at the Auction (including, if applicable, the Stalking Horse APA) (the "Successful Bid"). In making this decision, the Debtors shall consider, in consultation with the Consultation Parties, the amount of the purchase price, the assumption of liabilities, the likelihood of the bidder's ability to close a transaction and the timing thereof, the number, type, and nature of any changes to the Stalking Horse APA or other asset purchase agreement submitted with the Successful Bid, as applicable, requested by each bidder, and the net benefit to the Debtors' estates. The bidder submitting such Successful Bid at the Auction shall become the "Successful Bidder," and shall have such rights and responsibilities of the purchaser as set forth in the applicable asset purchase agreement. The Debtors shall designate a Back-Up Bid (and the corresponding Back-Up Bidder), to purchase the Assets in the event that the Successful Bidder does not close the Sale;
- (q) without the written consent of the Agent, no bid may qualify as the Successful Bid unless such bid provides for cash consideration of an amount equal to or greater

than the Prepetition 1L Obligations and DIP Obligations;

- (r) within one day after the conclusion of the Auction, the Debtors will file with the Court and serve on the Bid Notice Parties a notice setting forth the results of the Auction (the “Notice of Successful Bidder”), which will (a) identify the Successful Bidder and the Backup Bidder; (b) include a copy of the Successful Bid and the Backup Bid or a summary of the material terms of such bids, including any proposed assumption and assignment of executory contracts and unexpired leases contemplated thereby; and (c) set forth the (1) Adequate Assurance Objection Deadline, (2) date, time, and location of the Sale Hearing, and (3) any other relevant dates or other information necessary to reasonably apprise the Bid Notice Parties of the outcome of the Auction;
- (s) within one (1) business day of the close of the Auction, in the event the Stalking Horse Bidder is not the Successful Bidder (if applicable), the Successful Bidder shall supplement the Successful Bidder’s Good Faith Deposit such that the deposit shall be equal to an amount that is ten percent (10%) of the Successful Bid; and
- (t) prior to the Sale Hearing, the Successful Bidder shall complete and execute all agreements, contracts, instruments, and other documents evidencing and containing the terms and conditions upon which the Successful Bid was made.

The Debtors, in consultation with the Consultation Parties, reserve the right to make one or more adjournments in the Auction to, among other things (i) facilitate private discussions with individual Qualified Bidders and negotiate the terms of their Overbids, (ii) allow individual Qualified Bidders to consider how they wish to proceed, and (iii) give Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors may require in their reasonable discretion (and in consultation with the Consultation Parties) to determine that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt or equity funding commitments, to consummate the transaction.

THE SUCCESSFUL BID AND ANY BACK-UP BID AND THEIR RELATED TRANSACTION DOCUMENTS SHALL CONSTITUTE AN IRREVOCABLE OFFER AND BE BINDING ON THE SUCCESSFUL BIDDER AND THE BACK-UP BIDDER, RESPECTIVELY, FROM THE TIME THE BID IS SUBMITTED UNTIL TWO (2) BUSINESS DAYS AFTER THE SALE HAS CLOSED. EACH QUALIFIED BID THAT IS NOT THE SUCCESSFUL BID OR THE BACK-UP BID SHALL BE DEEMED WITHDRAWN AND TERMINATED AT THE CONCLUSION OF THE SALE HEARING.

Sale Hearing

The Successful Bid and any Back-Up Bid will be subject to approval by the Court. The Sale Hearing to approve the Successful Bid and any Back-Up Bid shall take place on **[November 16], 2023 at [●] (prevailing Eastern Time)**. The Sale Hearing may be adjourned by the Debtors, in consultation with the Consultation Parties and the Successful Bidder, from time to time without further notice to creditors or other parties in interest other than by announcement of the

adjournment in open court on the date scheduled for the Sale Hearing, or by filing a hearing agenda or notice on the docket of the Chapter 11 Cases.

At the Sale Hearing, the Debtors will seek entry of an order that, among other things: (i) authorizes and approves the Sale to the Successful Bidder pursuant to the terms and conditions set forth in the Stalking Horse APA or any alternative asset purchase agreement submitted by the Successful Bidder, as applicable, free and clear of all liens, claims, interests, and encumbrances, except certain permitted encumbrances as determined by the Debtors and any Successful Bidder; (ii) finds that the Successful Bidder is a good faith purchaser pursuant to section 363(m) of the Bankruptcy Code; (iii) authorizes the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale; and (iv) in the event that the Stalking Horse Bidder is not the Successful Bidder, directs that all cash proceeds generated from the Sale shall be paid to the Agent on behalf of the DIP Lenders and the Prepetition 1L Lenders upon the closing of the Sale for application in accordance with the terms and conditions of the DIP Order, the DIP Documents, and the Prepetition 1L Documents (each as defined in the DIP Order), until the DIP Obligations and the Prepetition 1L Obligations (each as defined in the DIP Order) are paid in full.

Back-Up Bidder

Notwithstanding any of the foregoing, in the event that the Successful Bidder fails to close the Sale on or before November 27, 2023 (or such date as may be extended by the Debtors with the consent of the Agent and in consultation with the Consultation Parties), the Back-Up Bid will be deemed to be the Successful Bid, the Back-Up Bidder will be deemed to be the Successful Bidder, and the Debtors shall be authorized to close the Sale to the Back-Up Bidder subject to the terms of the Back-Up Bid without the need for further order of the Court and without the need for further notice to any interested parties.

Return of Good Faith Deposits

All Good Faith Deposits shall be returned to each bidder not selected by the Debtors as the Successful Bidder no later than five (5) business days following the closing of the Sale. The deposit of the Successful Bidder or, if the Sale is closed with the Back-Up Bidder, the deposit of the Back-Up Bidder, shall be applied to the purchase price for the Sale. If the Successful Bidder (or, if the Sale is to be closed with the Back-Up Bidder, then the Back-Up Bidder) fails to consummate the Sale because of a breach or failure to perform on the part of such bidder, then, subject to the terms of the Stalking Horse APA or any alternative asset purchase agreement, as applicable, the Debtors and their estates shall be entitled to retain the Good Faith Deposit of the Successful Bidder (or, if the Sale is to be closed with the Back-Up Bidder, then the Back-Up Bidder) as part of the damages resulting to the Debtors and their estates for such breach or failure to perform. For the avoidance of doubt, the Debtors' retention of a Good Faith Deposit shall not constitute a waiver of any of the Debtors' legal or equitable rights relating to a Successful Bidder's or Back-Up Bidder's breach or failure to perform, and all such rights and remedies are preserved.

No-Shop or No-Solicitation Provisions

Neither the Bidding Procedures Order nor these Bidding Procedures limit the Debtors' ability or right to solicit higher or otherwise better bids. The Sale contemplated by the Motion,

these Bidding Procedures, and the Bidding Procedures Order calls for a fair and open bidding and auction process.

Notice and Consultation Parties

The term “Bid Notice Parties” as used in these Bidding Procedures shall mean: (a) the Debtors: 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039, (Attn: Diana P. Abril, Esq., Chief Legal Officer (diana.abril@agilethought.com)); (b) counsel to the Debtors, Hughes Hubbard & Reed LLP, One Battery Park Plaza, 16th Floor, New York, NY 10004 (Attn: Kathryn A. Coleman, Esq. (katie.coleman@hugheshubbard.com), Christopher Gartman, Esq. (chris.gartman@hugheshubbard.com), and Elizabeth A. Beitler, Esq. (elizabeth.beitler@hugheshubbard.com)); (c) co-counsel to the Debtors, Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19801 (Attn: Jeremy W. Ryan, Esq. (jryan@potteranderson.com)); (d) investment banker to the Debtors: Guggenheim Securities, LLC, 330 Madison Avenue, New York, NY 10017 (Attn: Stephen Preefer (Stephen.Preefer@guggenheimpartners.com), Jim Suprenant (Jim.Suprenant@guggenheimpartners.com), and Scott Green (Scott.Green@guggenheimpartners.com)); (e) counsel to the Official Committee of Unsecured Creditors appointed by the U.S. Trustee (the “Committee”), Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801 (Attn: Bradford J. Sandler (bsandler@pszjlaw.com), Colin R. Robinson (crobinson@pszjlaw.com), and Cia Mackle (cmackle@pszjlaw.com)); (f) counsel to the Agent and Stalking Horse Bidder, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036-8704 (Attn: Gregg M. Galardi (Gregg.Galardi@ropesgray.com), Robb Tretter (Robb.Tretter@ropesgray.com), and Leonard Klingbaum (Leonard.Klingbaum@ropesgray.com)); and (g) co-counsel to the Agent and Stalking Horse Bidder, Chipman Brown Cicero & Cole, LLP, 1313 N. Market Street Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers (desgross@chipmanbrown.com)).

The term “Consultation Parties” as used in these Bidding Procedures shall mean counsel to the Committee and the Agent; *provided* that, to the extent that the Debtors are authorized to enter into the Stalking Horse APA at the Stalking Horse Hearing, the Agent shall not be a “Consultation Party” for the purpose of evaluating competing Qualified Bids but shall received notice of such bids as soon as practical upon the Debtors’ receipt of such competing Qualifying Bids.

For the avoidance of doubt, any consultation rights provided to the Consultation Parties by these Bidding Procedures shall not limit the Debtors’ discretion in any way and shall not include the right to veto any decision made by the Debtors in the exercise of their business judgment.

In the event that any member of any official or unofficial creditors’ committee or an affiliate of any of the foregoing submits a bid that is a Qualified Bid, any information provided to the Committee will be on a professional eyes only basis and will not be shared with such bidding member of the Committee.

Reservation of Rights

Notwithstanding any of the foregoing, the Debtors, in consultation with the Consultation Parties, may (a) subject to the DIP Credit Agreement and with the consent of the Agent, extend the deadlines set forth in the Bidding Procedures Order or these Bidding Procedures, and (b) adopt, implement, and waive such other, additional, or existing procedures or requirements that in the Debtors' discretion serves to further an orderly Auction and bid process, including, but not limited to, the imposition of a requirement that all Qualified Bidders submit sealed Qualified Bids during the Auction, all without further notice except to the Auction Participants, as appropriate.

The Debtors, in consultation with the Consultation Parties, may (a) determine which Qualified Bid, if any, is the Successful Bid, and (b) reject at any time before entry of the Proposed Sale Order approving the Successful Bid, any bid that, in the discretion of the Debtors, in consultation with the Consultation Parties, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or these Bidding Procedures, or (iii) contrary to the best interests of the Debtors' estates and their creditors. At or before the conclusion of the Auction, the Debtors, in consultation with the Consultation Parties, may impose such other terms and conditions upon Qualified Bidders as the Debtors determine to be in the best interests of the Debtors' estates in the Chapter 11 Cases.

EXHIBIT 2

Sale Notice

EXHIBIT 3

Notice of Assumption, Assignment and Sale

EXHIBIT 2

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

AN GLOBAL LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 23-11294 (JKS)

(Jointly Administered)

Re: D.I. _____

ORDER (I) SCHEDULING A HEARING ON THE APPROVAL OF THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES OTHER THAN ASSUMED LIABILITIES AND PERMITTED ENCUMBRANCES, AND THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, (II) APPROVING CERTAIN BIDDING PROCEDURES, ~~BIDDING PROTECTIONS, AND~~ ASSUMPTION AND ASSIGNMENT PROCEDURES, AND THE FORM AND MANNER OF NOTICE THEREOF, ~~AND (III) AUTHORIZING THE DEBTORS TO ENTER INTO THE STALKING HORSE APA, AND (IV) GRANTING RELATED RELIEF~~

Upon the motion (the "Motion")² of the above-captioned affiliated debtors and debtors in possession (collectively, the "Debtors"), pursuant to sections 105, 363, 365, 503, and 507 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, and 9014 of the

1. The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number or registration number in the applicable jurisdiction, are: AN Global LLC (5504); AgileThought, Inc. (2509); 4th Source Holding Corp. (9629); 4th Source Mexico, LLC (7552); 4th Source, LLC (7626); AgileThought Brasil-Consultoria Em Tecnologia LTDA (01-42); AgileThought Brasil Servicos de Consultoria Em Software (01-20); AgileThought Costa Rica S.A. (6822); AgileThought Digital Solutions, S.A.P.I. de C.V. (3KR0); AgileThought México S.A. de C.V. (7E46); AgileThought, LLC (7076); AgileThought Servicios Administrativos, S.A. de C.V. (4AG1); AgileThought Servicios México S.A. de C.V. (8MY5); AgileThought, S.A.P.I. de C.V. (No Tax ID); AGS Alpama Global Services USA, LLC (0487); AN Data Intelligence, S.A. de C.V. (8173); AN Extend, S.A. de C.V. (1D80); AN Evolution, S. de R.L. de C.V. (7973); AN USA (5502); AN UX, S.A. de C.V. (7A42); Cuarto Origen, S. de R.L. de C.V. (0IQ9); Entrepids México, S.A. de C.V. (OCYA); Entrepids Technology Inc. (No Tax ID); Facultas Analytics, S.A.P.I. de C.V. (6G37); Faktos Inc., S.A.P.I. de C.V. (3LLA); IT Global Holding LLC (8776); and QMX Investment Holdings USA, Inc. (9707). The Debtors' headquarters are located at 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039.
2. Capitalized terms used but not defined herein shall have the meanings given them in the Bidding Procedures (as defined below), or to the extent not defined therein, the Motion or the Stalking Horse APA (as defined below).

Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1 and 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for, inter alia, entry of an order (this “Order”):

(i) scheduling a hearing (the “Sale Hearing”) on approval of the proposed sale (the “Sale”) of all or substantially all of the Debtors’ assets (the “Assets”) free and clear of all Liens, claims, and interests, other than Assumed Liabilities (as defined in the Stalking Horse APA) to ~~[Blue Torch Finance LLC], an entity organized and controlled by the Agent (as defined herein) (the “the Stalking Horse Bidder”)~~, or any other Successful Bidder (as defined herein), and the assumption and assignment of certain executory contracts and unexpired leases (each, an “Assigned Contract” and collectively, the “Assigned Contracts”); (ii) authorizing and approving certain bidding procedures for the Sale (collectively, the “Bidding Procedures,” a copy of which is attached hereto as Exhibit 1), and the form and manner of notice thereof; (iii) ~~authorizing the Debtors’ entry into the Asset Purchase Agreement substantially in the form attached hereto as Exhibit 2 (the “Stalking Horse APA”) with the Stalking Horse Bidder; (iv) authorizing and approving the Expense Reimbursement (as defined herein); (v) approving procedures related to the assumption and assignment of certain executory contracts and unexpired leases, (vi) scheduling an auction for the Assets (the “Auction”); and (vii) granting related relief, all as more fully described in the Motion; and the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); 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 having heard the statements in support of the relief requested therein at a hearing before the Court (the “Hearing”); and the Court having determined~~

the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore;

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. This Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012.

B. 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).

C. The statutory and legal predicates for the relief requested in the Motion and provided for herein are (i) sections 105, 363, 365, 503 and 507 of title 11 of the Bankruptcy Code; (ii) Bankruptcy Rules 2002, 6004, 6006, and 9014; and (ii) Local Rules 2002-1 and 6004-1.

D. Good and sufficient notice of the relief granted by this Order has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief granted by this Order (including, without limitation, with respect to the Bidding Procedures) has been afforded to those parties entitled to notice pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1(b).

3. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

E. The Sale Notice (as defined below), in substantially in the form attached hereto as Exhibit 32, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of this Order, the Bidding Procedures, the Auction, the Sale, and the Sale Hearing, and any and all objection deadlines related thereto, and no other or further notice is required of the foregoing.

F. The Debtors have articulated good and sufficient business reasons for the Court to approve the Bidding Procedures ~~and the Expense Reimbursement~~. The Bidding Procedures are: (i) fair, reasonable and appropriate; and (ii) designed to maximize recovery with respect to a Sale or an investment in the form of a Chapter 11 Plan Transaction (as defined in the Bidding Procedures). The Bidding Procedures ~~and Expense Reimbursement~~ 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 the Debtors' Assets. The ~~process for selecting the Stalking Horse Bidder was fair and appropriate under the circumstances and in the best interests of the Debtors' estates. The~~ Bidding Procedures comply with the requirements of Local Rule 6004-1(c).

~~G. The Stalking Horse APA represents the highest or otherwise best offer the Debtors have received to date to purchase the Assets designated for purchase thereunder. The Stalking Horse APA provides the Debtors with the opportunity to sell such Assets in a manner designed to preserve and maximize their value and provides a floor for a further marketing and auction process. Without the Stalking Horse APA, the Debtors are at a significant risk of realizing a lower price for their Assets. The Stalking Horse Bidder shall act as a "stalking horse bidder" pursuant to the Stalking Horse APA and shall be subject to higher or otherwise better offers in accordance with the Stalking Horse APA and the Bidding Procedures. Pursuit of the Stalking~~

~~Horse Bidder as a “stalking horse bidder” and the Stalking Horse APA as a “stalking horse purchase agreement” is in the best interests of the Debtors and the Debtors’ estates and their creditors, and it reflects a sound exercise of the Debtors’ business judgment.~~

~~H. The Expense Reimbursement to be paid to the Stalking Horse Bidder, up to the cap of \$2.5 million on account of the documented out of pocket fees and expenses incurred by the Stalking Horse Bidder and its Affiliates (as defined in the Stalking Horse APA), (i) 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, (ii) are commensurate to the real and substantial benefit conferred upon the Debtors’ estates by the Stalking Horse Bidder, (iii) are reasonable and appropriate, in light of the size and nature of the proposed Sale and comparable transactions, the commitments that have been made and the efforts that have been and will be expended by the Stalking Horse Bidder, (iv) were negotiated by the parties at arm’s length and in good faith, and (v) are necessary to ensure that the Stalking Horse Bidder will continue to pursue its proposed acquisition of the Assets contemplated in the Stalking Horse APA. The Stalking Horse Bidder is unwilling to commit to purchase the Assets under the terms of the Stalking Horse APA without approval of the Expense Reimbursement. The Expense Reimbursement and the limitation on the Stalking Horse Bidder’s liability in the event of a termination of the Stalking Horse APA, as set forth in, and in accordance with, Section 10.2 of the Stalking Horse APA were material inducements to the Stalking Horse Bidder to submit a bid that will serve as a minimum or floor bid on which the Debtors, their creditors, customers, suppliers, vendors, and other bidders can rely. The Stalking Horse Bidder has provided a material benefit to the Debtors and their creditors by increasing the likelihood that the best possible price given the circumstances for the Assets will be received. Accordingly, the Bidding Procedures, the~~

~~Expense Reimbursement, and the limitation on damages are reasonable and appropriate and represent the best method for maximizing value for the benefit of the Debtors' estates.~~

G. ~~I.~~—The Notice of Assumption, Assignment and Sale (as defined below) (substantially in the form attached hereto as **Exhibit 43**) is appropriate and reasonably calculated to provide counterparties to the Assigned Contracts with timely and proper notice of the potential/intended assumption and assignment of their executory contracts or unexpired leases, and the procedures for the assumption and assignment of the Assigned Contracts, and no other or further notice is required.

H. ~~J.~~—Entry of this Order is in the best interests of the Debtors, their estates, and creditors and all other interested parties.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED ~~with respect to all issues other than approval of the Sale, to the extent~~as set forth herein.

2. The hearing to consider entry of the order approving the Stalking Horse APA and the Expense Reimbursement shall be adjourned to October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) (such hearing, the “Stalking Horse Hearing”).

3. ~~2.~~—Except as expressly provided herein, nothing herein shall be construed as a determination of the rights of any party in interest in these Chapter 11 Cases. Any objections to the Motion as they pertain to the bidding and Auction process or the relief granted by this Order that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby overruled and denied on the merits with prejudice.

Bidding Procedures

4. ~~3.~~ The Bidding Procedures attached hereto as **Exhibit 1** are hereby APPROVED.

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 provision, it being this Court's intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to implement the Bidding Procedures.

The Sale Schedule

5. ~~4.~~ The dates and deadlines below are approved, but may also be modified by the Debtors to the extent permitted under the Bidding Procedures.

| Event | Date |
|---|--|
| Deadline to file Cure Costs Motion | September 15, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Cure Objection Deadline | September 27, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| <u>Stalking Horse Hearing and Hearing on Cure Costs Motion</u> | October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) |
| <u>Deadline for Debtors to file a form of Sale Order</u> | <u>[October 26], 2023 at 4:00 p.m. (prevailing Eastern Time), or such date that is seven (7) calendar days in advance of the Sale Objection Deadline</u> |
| <u>Sale Objection Deadline</u> | <u>[November 2], 2023 at 4:00 p.m. (prevailing Eastern Time)</u> |
| Bid Deadline | November 9, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Deadline for Debtors to Designate Qualified Bids and Baseline Bid | November 10, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Auction | November 13, 2023 at 11:00 a.m. (prevailing Eastern Time) |
| Sale Objection Deadline | [November 2], 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Debtors' Deadline to Reply to Sale Objections | [November 13], 2023 at 6:00 p.m. (prevailing Eastern Time) |
| Supplemental Sale Objection Deadline | [November 15], 2023 at 10:00 a.m. (prevailing Eastern Time) |

| Event | Date |
|--------------|--|
| Sale Hearing | [November 16], 2023 at [●] (prevailing Eastern Time) |

~~**The Stalking Horse APA and Stalking Horse Bidder**~~

~~5. Subject to the Bidding Procedures and approval at the Sale Hearing, the Debtors' entry into the Stalking Horse APA attached hereto as **Exhibit 2** is hereby authorized.~~

~~6. The Stalking Horse Bidder is deemed a Qualified Bidder and the Stalking Horse APA is a Qualified Bid for all purposes in connection with the bidding process, the Auction, and the Sale. Notwithstanding anything herein to the contrary, the Stalking Horse Bidder shall not be required to take any further action in order to participate in the Auction (if any) or, if the Stalking Horse Bidder is the Successful Bidder, to be named the Successful Bidder at the Sale Hearing.~~

~~7. The Stalking Horse Bidder is authorized to credit bid (or assume debt) up to the full amount of the full amount of the DIP Obligations, the Prepetition 1L Obligations, and the First Lien Adequate Protection Obligations (all as defined in the DIP Order) pursuant to section 363(k) of the Bankruptcy Code.³~~

~~8. In the event of a competing bid, the Stalking Horse Bidder will be entitled, but not obligated, to submit successive subsequent bids and will be entitled in the calculation of the amount of the Stalking Horse Bidder's bid and any subsequent bids for a credit equal to the amount of the Expense Reimbursement. For the avoidance of doubt, the Stalking Horse Bidder does not waive its right to the Expense Reimbursement by placing a subsequent bid. Any proposal for a competing bid must be made in accordance with the Bidding Procedures.~~

~~3. See Interim Order (I) Authorizing the Debtors to (A) Obtain Post-Petition Financing and (B) Utilize Cash Collateral, (II) Granting Senior Secured Priming Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to the Prepetition 1L Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief] [Docket No. 65] (the "DIP Order").~~

The Expense Reimbursement

~~9. To the extent due under the Stalking Horse APA, the Debtors are authorized to pay the Stalking Horse Bidder's reasonable, documented out-of-pocket fees and expenses incurred by the Stalking Horse Bidder and its affiliates prior to termination of the Stalking Horse APA in connection with the Stalking Horse APA, the other transaction Documents, the Sale Order, and the transactions contemplated thereby, including the reasonable fees and expenses of legal counsel, financial advisors, consultants, and any other advisors that the Stalking Horse Bidder engages in its reasonable discretion up to \$2.5 million (the "Expense Reimbursement"), to be paid under the terms of the Stalking Horse APA.~~

~~10. The obligation to pay the Expense Reimbursement in accordance with the terms of the Stalking Horse APA shall not be discharged, modified, or otherwise affected by any chapter 11 plan in these Chapter 11 Cases or by any other order or action of the Court. The Expense Reimbursement shall be an allowed administrative expense claim pursuant to sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code.~~

~~11. Except for the Stalking Horse Bidder, no other person or entity shall be entitled to any expense reimbursement or any break-up, "topping," termination, or other similar fee or payment in connection with any bid. Any bid (other than the Stalking Horse APA) that seeks allowance or payment of any topping or other similar fee or expense reimbursement or similar consideration from the Debtors in connection with such bid, shall not be a Qualified Bid and shall not be a permitted bid at any Auction.~~

Notice Procedures

6. ~~12.~~ The Sale Notice, the Notice of Assumption, Assignment and Sale, and any Supplemental Assumption Notice, the Bidding Procedures, the Auction, and the Sale Hearing,

and the objection periods associated with each of the foregoing are reasonably calculated to provide notice to any affected party and afford the affected party the opportunity to exercise any rights affected by the Motion as it relates to the Bidding Procedures, the Auction, the Sale, the Sale Hearing, and the assumption and assignment ~~to the Stalking Horse Bidder or, in the event the Stalking Horse Bidder is not the Successful Bidder, then to the Successful Bidder,~~ of the Assigned Contracts pursuant to Bankruptcy Rules 2002(a)(2), 6004, and 6006; to the Successful Bidder and such notice and objection periods are hereby approved.

7. ~~13.~~ The Sale Notice is approved. Within three (3) business days of the entry of this Order, the Debtors shall serve the Sale Notice by regular mail on: (a) the U.S. Trustee for the District of Delaware; (b) counsel to the Committee, ~~if any~~; (c) counsel to the Agent; (d) counsel to GLAS Americas LLC, as the administrative agent for the prepetition second lien lenders; (e) counsel to the Stalking Horse Bidder; (f) the United States Attorney's Office for the District of Delaware; (g) the state attorneys general for all states in which the Debtors conduct business; (h) all parties to Potential Assigned Contracts; (i) all parties who have expressed to the Debtors or their professionals in writing an interest in acquiring some or all of the Assets; (j) all known holders of liens, encumbrances, and other claims secured by any of the Assets; (k) the Internal Revenue Service; (l) all applicable state and local taxing authorities; (m) the Federal Trade Commission; (n) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; (o) all of the Debtors' other known creditors and equity security holders; and (p) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002 (collectively, the "Sale Notice Parties").

8. ~~14.~~ The Debtors shall post the Sale Notice, the Notice of Assumption, Assignment and Sale, and any Supplemental Assumption Notice and this Order on the website of

the Debtors' claims and noticing agent. Within seven (7) business days of the entry of this Order, the Debtors shall cause the Sale Notice to be published once in the national edition of USA Today or another nationally circulated newspaper, with any modifications necessary for ease of publication. Publication of the Sale Notice as described in this Order conforms to the requirements of Bankruptcy Rules 2002(l) and 9008, and is reasonably calculated to provide notice to any affected party, including any Interested Parties, and afford the affected party the opportunity to exercise any rights affected by the Motion and the relief granted by this Order.

Sale Objection Procedures

9. ~~15.~~ Any objections to the Sale or the relief requested in connection with the Sale including, only in the event the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA at the Stalking Horse Hearing, objections related to the adequate assurance of future performance by the Stalking Horse Bidder but not including objections related to cure costs for the Assigned Contracts or general objections to the assumption and assignment of the Assigned Contracts (each a "Sale Objection"), must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) set forth the specific basis for the Sale Objection; (d) be filed with the Clerk of this Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801 **on or before [November 2], 2023 at 4:00 p.m. (prevailing Eastern Time)** (the "Sale Objection Deadline"), and proof of service of such Sale Objection upon the Objection Notice Parties⁴⁴ shall be filed with the Court as and when required by the Local Rules; and (e) be served

⁴⁴ The "Objection Notice Parties" and their addresses are as follows: (a) Debtors' counsel, (i) Hughes Hubbard & Reed LLP, One Battery Park Plaza, 16th Floor, New York, NY 10004 (Attn: Kathryn A. Coleman, Esq. (katie.coleman@hugheshubbard.com), Christopher Gartman, Esq. (chris.gartman@hugheshubbard.com), and Elizabeth A. Beitler, Esq. (elizabeth.beitler@hugheshubbard.com)); and (ii) Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19801 (Attn: Jeremy W. Ryan, Esq. (jryan@potteranderson.com)); (b) counsel to the Agent and Stalking Horse Bidder, (i) Ropes & Gray LLP, 1211 Avenue of the Americas, New York, New York 10036, (Attn: Gregg M. Galardi (Gregg.Galardi@ropesgray.com), Robb Tretter (Robb.Tretter@ropesgray.com), and Leonard Klingbaum

upon the Objection Notice Parties; *provided, however*, that the Sale Objection Deadline solely for Sale Objections related to the adequate assurance of future performance of a purchaser that is not the Stalking Horse Bidder or to the conduct of the Auction shall be **on or before [November 15], 2023 at 10:00 a.m. (prevailing Eastern Time)** (the “Supplemental Sale Objection Deadline”). If a Sale Objection is not filed and served on or before the Sale Objection Deadline or Supplemental Sale Objection Deadline, as applicable, in accordance with the foregoing requirements, the objecting party may be barred from objecting to the Sale and being heard at the Sale Hearing, and this Court may enter the Proposed Sale Order without further notice to such party.

10. ~~16.~~ Failure to object to the relief requested in the Motion shall be deemed to be “consent” for purposes of section 363(f) of the Bankruptcy Code. All objections to the Motion or the relief requested therein (and all reservations of rights included therein), as they pertain to the entry of this Order, are overruled to the extent they have not been withdrawn, waived, or otherwise resolved.

Notice of Successful Bidder

11. ~~17.~~ The Debtors shall file a Notice of Successful Bidder within twenty-four (24) hours of the conclusion of the Auction and send such notice by overnight mail to all counterparties of all Potential Assigned Contracts (as defined below), and if the Successful Bidder is an entity other than the Stalking Horse Bidder, the Debtors shall include in the Notice

(Leonard.Klingbaum@ropesgray.com)) and (ii) Chipman Brown Cicero & Cole, LLP, 1313 N. Market Street Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers (desgross@chipmanbrown.com))~~and;~~ (c) counsel to the Committee, Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801 (Attn: Bradford J. Sandler, Esq. (bsandler@pszjlaw.com) and Colin R. Robinson, Esq. (crobinson@pszjlaw.com)); and (d) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Benjamin Hackman, Esq. (benjamin.a.hackman@usdoj.gov)).

of Successful Bidder notice of a status conference regarding scheduling around adequate assurance of future performance on [November 16], 2023 at [●] (prevailing Eastern Time) or at the Court's earliest convenience thereafter.

12. ~~18.~~ As soon as reasonably practicable after the completion of the Auction (if any); ~~if the Successful Bidder is not the Stalking Horse Bidder,~~ the Debtors shall file a final form of order (the "~~Alternative~~Proposed Sale Order") approving the Sale as agreed upon between the Debtors (in consultation with the Consultation Parties) and the Successful Bidder. If a Successful Bid is a Chapter 11 Plan Bid, the ~~Alternative~~Proposed Sale Order shall, among other things, set proposed dates for (a) the filing of a chapter 11 plan (the "Plan") propounded by the Debtors in consultation with the Successful Bidder and the Consultation Parties, (b) a hearing to consider the disclosure statement with respect to the Plan, and (c) a confirmation hearing with respect to the Plan.

13. ~~19.~~ In the event that the Successful Bidder does not consummate the Sale and a Back-Up Bidder(s) has been previously identified, the Debtors shall file and serve a notice of the Debtors' intent to proceed with the Back-Up Bid.

Assumption and Assignment Procedures

14. ~~20.~~ The form of notice to counterparties to all Potential Assigned Contracts (the "Notice of Assumption, Assignment and Sale") attached hereto as **Exhibit 43** is hereby authorized, approved, and made part of this Order as if fully set forth herein.

15. ~~21.~~ The following procedures for assumption and assignment of executory contracts and unexpired leases (the "Assumption Procedures") are hereby approved:

- a. **Motion to Set Cure Costs.** ~~By no later than~~On September 15, 2023, the Debtors ~~shall file~~filed a motion (such motion the "Cure Costs Motion") through which the Debtors ~~will~~ seek entry of an order (the "Cure Costs Order") fixing monetary amounts that the Debtors would be obligated to pay in connection with the assumption or the assumption and assignment of all of the Debtors' executory

contracts and unexpired leases (the “Potential Assigned Contracts”) and to elicit any objection to the assumption and assignment of such Potential Assigned Contracts other than objections based on adequate assurance of future performance. The Debtors ~~shall~~ set the Cure Costs Motion for hearing ~~no later than~~ on October 4, 2023. The Cure Costs Motion ~~shall include~~ includes (i) the title of each Potential Assigned Contract, (ii) the name of the counterparty to the Potential Assigned Contract, (iii) Debtors’ proposed Cure Costs (if any) required in connection with the Potential Assigned Contract, and (iv) the deadline to object to the Debtors’ proposed Cure Costs.

- b. **Notice of Assumption, Assignment and Sale.** No later than three (3) business days prior to the Bid Deadline (the “Assumption, Assignment and Sale Service Deadline”), the Debtors shall serve the Notice of Assumption, Assignment and Sale via overnight delivery on all counterparties to executory contracts and unexpired leases of the Debtors ~~designated as Assigned Contracts by the Stalking Horse Bidder~~ which may be assumed and assigned in connection with the Sale (collectively, the “Assigned Contracts”)⁵ and file the same with the Court. The Notice of Assumption, Assignment and Sale shall inform each recipient of (i) the timing and procedures relating to such assumption, assignment and sale, (ii) the title of the Potential Assigned Contract, and (iii) the name of the counterparty to the Potential Assigned Contract; *provided, however*, that service of a Notice of Assumption, Assignment and Sale does not constitute an admission that such Potential Assigned Contract is an executory contract or unexpired lease or that such stated Cure Cost constitutes a claim against the Debtors or a right against the ~~Stalking Horse Bidder (or other Successful Bidder)~~ and all rights with respect thereto shall be expressly reserved. Further, the inclusion of a Potential Assigned Contract on the Notice of Assumption, Assignment and Sale is not a guarantee that such Potential Assigned Contract will ultimately be assumed, assigned and sold.

As set forth above, within three (3) business days of the entry of this Order, the Debtors shall serve the Sale Notice on the Sale Notice Parties, including all parties to Potential Assigned Contracts. ~~The Sale Notice, among other things, sets forth the timing and procedures for objecting to the assumption and assignment of the Potential Assigned Contracts on the basis of adequate assurance of future performance by the Stalking Horse Bidder or the Successful Bidder.~~

- c. **Objections.** Any counterparty to a Potential Assigned Contract shall file and serve objections with respect to the Cure Costs Motion in accordance with the Cure Costs Motion. Any counterparty to a Potential Assigned Contract shall file and serve on the Objection Notice Parties any objection to the proposed assumption and assignment of the Potential Assigned Contracts on the basis of adequate assurance of future performance to (i) the Stalking Horse Bidder, if

⁵ In the event the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA at the Stalking Horse Hearing, the Assigned Contracts shall be those designated by the Stalking Horse Bidder in accordance with the Stalking Horse APA.

applicable, by no later than the Sale Objection Deadline, and (ii) to any other Successful Bidder by no later than [November 15, 2023] at 10:00 a.m. (prevailing Eastern Time). If no objection is timely filed and served, (x) the counterparty to the Potential Assigned Contract shall be deemed to have consented to the assumption, assignment and sale of the Contract to the Successful Bidder pursuant to sections 363 and 365 of the Bankruptcy Code if such Potential Assigned Contract is designated by the Successful Bidder as an Assigned Contract, and shall be forever barred from asserting any objection with regard to such assumption, assignment and sale, except with respect to the adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Bidder.

- d. **Supplemental Contract Assumption Notice.** To the extent the Stalking Horse Bidder, if applicable, at any time after the Assumption, Assignment and Sale Service Deadline (i) identifies additional Assigned Contracts, or (ii) removes Assigned Contracts from the list of executory contracts and unexpired leases ultimately selected as Assigned Contracts, the Debtors will promptly file with this Court and serve by overnight delivery a supplemental notice of contract assumption (a “Supplemental Assumption Notice”) on each of the counterparties to the affected Potential Assigned Contracts and their counsel of record, if any. Each Supplemental Assumption Notice will include the same information with respect to listed Potential Assigned Contracts as was included in the Notice of Assumption, Assignment and Sale. Each Supplemental Assumption Notice that identifies a Potential Assigned Contract that was not previously designated to be assumed, assigned and sold shall provide a deadline of not less than seven (7) business days from the date of service of such Supplemental Assumption Notice by which the counterparty to any such Potential Assigned Contract may object only to its listing as an Assigned Contract (if it was not previously designated to be assigned).
- e. **Supplemental Adequate Assurance Objection Deadline.** Following the Bid Deadline, in the event that the Debtors receive one or more Qualified Bids other than the Stalking Horse APA (to the extent authorized), upon request by any counterparty to a Potential Assigned Contract, the Debtors will send such party evidence that any Qualified Bidder that included such Potential Assigned Contract in its Bid has the ability to perform thereunder and otherwise complies with the requirements of adequate assurance of future performance under section 365(b)(1) of the Bankruptcy Code on a confidential basis for all nonpublic information. Consistent with Paragraph ~~17~~11 of the Bidding Procedures Order, the Debtors shall file a Notice of Successful Bidder within twenty-four (24) hours of the conclusion of the Auction and send such notice by overnight mail to all counterparties of Potential Assigned Contracts, which shall set forth, among other things, (i) the Successful Bidder and Back-Up Bidder (if any) and the amount of each of the Successful Bid and the Back-Up Bid (if any), (ii) the Assigned Contracts the Successful Bidder intends to assume, and (iii) the proposed assignee(s) of such Assigned Contracts. To the extent the Successful Bidder is not the Stalking Horse Bidder, the non-debtor counterparties to the Assigned

Contracts shall have until 10:00 a.m. on [November 15, 2023] to file any objections to adequate assurance of future performance by the Successful Bidder.

- f. **Contract Assumption.** No Assigned Contract shall be deemed assumed, assigned and sold pursuant to sections 365 and 363 of the Bankruptcy Code until the later of (i) the date the Court has entered an order assuming, assigning and selling such Assigned Contracts or (ii) the date the Sale has closed.

16. ~~22.~~ The Successful Bidder shall be responsible for paying any Cure Costs for an Assigned Contract that is assumed and assigned and for satisfying any requirements regarding adequate assurance of future performance that may be imposed under section 365(b) of the Bankruptcy Code in connection with the proposed assignment of any Assigned Contract, and the failure to provide adequate assurance of future performance to any counterparty to any Assigned Contract shall not excuse the Successful Bidder from performance of any and all of its obligations pursuant to the Successful Bidder's asset purchase agreement.

17. ~~23.~~ The Debtors' decision to assume and assign the Assigned Contracts ~~to the Stalking Horse Bidder or, in the event the Stalking Horse Bidder is not the Successful Bidder, then~~ to the Successful Bidder, is subject to this Court's approval and the closing of the Sale. Accordingly, absent this Court's approval and the closing of the Sale, the Assigned Contracts shall not be assumed or assumed and assigned and shall in all respects be subject to further administration by the Debtors and their estates under the Bankruptcy Code in connection with these Chapter 11 Cases.

18. ~~24.~~ Nothing herein shall restrict the ability of the Debtors to reject or terminate a contract or lease that has not been designated as an Assigned Contract as of the Closing Date, except to the extent provided in the asset purchase agreement that is the Successful Bid.

Other Relief Granted

19. ~~25. If no timely Qualified Bids other than the Stalking Horse APA are submitted on or before the Bid Deadline, the Debtors shall not hold an Auction and shall request at the Sale Hearing that this Court approve the Stalking Horse APA and the transactions contemplated thereunder.~~ If the Debtors timely receive more than ~~one or more~~ Qualified Bids ~~other than the Stalking Horse APA Bid~~, then the Debtors shall conduct the Auction on **November 13, 2023 at 11:00 a.m. (prevailing Eastern Time)**, at the offices of Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, New York 10004 or virtually via telephone or video conference pursuant to information to be timely provided by the Debtors to the Auction Participants (as defined below). Only the Debtors, the Auction Bidders ~~(including the Stalking Horse Bidder)~~, the Consultation Parties, and any creditors of the Debtors, together with the professional advisors to each of the foregoing parties, may attend the Auction (collectively, the “Auction Participants”); *provided* that any such creditors provide counsel for the Debtors written notice of their intent to attend the Auction no later than 5:00 p.m. (ET) the day prior to the Auction.

20. ~~26.~~ The Debtors shall have until **[November 13], 2023 at 4:00 p.m. (prevailing Eastern Time)** to file and serve a reply to any objection filed in connection with the Sale, ~~including any Sale Objection, Adequate Assurance Objection, or Omitted Contract Objection,~~ that is duly filed by **[November 2], 2023 at 4:00 p.m. (prevailing Eastern Time)**, and shall have until the Sale Hearing to reply to any objections filed or asserted thereafter.

21. ~~27.~~ The Sale Hearing shall be held in this Court on **[November 16], 2023 at [●] (prevailing Eastern Time)**, unless otherwise determined by this Court. The Sale Hearing may be adjourned by the Debtors, ~~the Consultation Parties, and the Stalking Horse Bidder, or, in the event the Stalking Horse Bidder is not the Successful Bidder, then in consultation with the~~

Consultation Parties, and the Successful Bidder, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing, or by filing a hearing agenda or notice on the docket of these Chapter 11 Cases.

22. ~~28.~~ All persons and entities that participate in the Auction or bid for any Asset during the Sale 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; *provided* that, notwithstanding anything contained in this Order, nothing herein alters or impacts any party in interest's rights with respect to which judicial forum is the appropriate judicial forum for a lawsuit or proceeding arising under the Prepetition 1L Credit Agreement (as defined in the DIP Order).

23. ~~29.~~ The Debtors are authorized to conduct the Sale without the necessity of complying with any state or local bulk transfer laws or requirements.

24. ~~30.~~ In the event that there is a conflict between this Order or the Bidding Procedures, on the one hand, and the Motion, ~~the Stalking Horse APA,~~ or the Successful Bidder's asset purchase agreement (including the Stalking Horse APA, if applicable), on the other hand, this Order and the Bidding Procedures shall control and govern. If there is a conflict

between this Order and the Bidding Procedures, this Order shall control and govern. If there is a conflict between this Order or the Bidding Procedures, on the one hand, and any notice served in connection with the Motion or this Order, on the other hand, this Order and the Bidding Procedures shall control and govern.

25. Cigna Health and Life Insurance Company and the Debtors are parties to two contracts (jointly, the “Cigna Contracts”), pursuant to which Cigna provides ongoing insurance and administrative services relating to the Debtors’ self-funded employee healthcare benefits plan. Notwithstanding anything in this Order to the contrary, unless Cigna and the Debtors agree otherwise, the Debtors shall provide to Cigna, through its counsel of record, no later than one (1) business days following conclusion of the Auction, but in no event later than the start of the Sale Hearing, written notice of Debtors’ irrevocable (subject to closing of the proposed Sale) decision as to whether or not the Debtors propose to assume and assign the Cigna Contracts to the Successful Bidder as part of the proposed Sale.

26. ~~31.~~ Prior to mailing the Sale Notice, the Notice of Assumption, Assignment and Sale, and any Supplemental Assumption Notice, the Debtors may fill in, or cause to be filled in, any missing dates and other information, correct any typographical errors, conform the provisions thereof to the provisions of this Order, and make such other, non-material changes as the Debtors deem necessary or appropriate.

27. ~~32.~~ This Order shall be effective immediately upon entry, and any stay of orders provided for in Bankruptcy Rules 6004(h) or 6006(d) or any other provision of the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules is expressly waived. The Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this

Order, and may, in their sole discretion and without further delay, take any action and perform any act authorized or approved under this Order.

28. ~~33.~~ The requirements set forth in Local Rules 6004-1, 9006-1, and 9013-1 are hereby satisfied or waived.

29. ~~34.~~ The Debtors are authorized to take all steps necessary or appropriate to implement the relief granted in this Order.

30. ~~35.~~ This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation or interpretation of the Order.

EXHIBIT 1

Bidding Procedures

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

In re

AN GLOBAL LLC, et al.,¹

Debtors.

Chapter 11

Case No. 23-11294 (JKS)

(Jointly Administered)

BIDDING PROCEDURES

On August 28, 2023 (the “Petition Date”), the above-captioned debtors and debtors in possession (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”). The Debtors are maintaining their business and managing their property as debtors in possession pursuant to section 1107(a) and 1108 of the Bankruptcy Code.

On [●], 2023, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an order [Docket No. ●] (the “Bidding Procedures Order”), among other things, granting certain relief requested in the related motion [Docket No. ●72] (the “Bidding Procedures Motion”), including authorizing the Debtors to solicit bids and approving the procedures set forth herein (collectively, the “Bidding Procedures”) to be employed by the Debtors in connection with the proposed sale (the “Sale”) of all or substantially all of the Debtors’ assets (the “Assets”), free and clear of all encumbrances other than Assumed Liabilities² ~~to [Blue Torch Finance LLC]~~, [pursuant to the asset purchase agreement with the Successful Bidder](#).

1. The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number or registration number in the applicable jurisdiction, are: AN Global LLC (5504); AgileThought, Inc. (2509); 4th Source Holding Corp. (9629); 4th Source Mexico, LLC (7552); 4th Source, LLC (7626); AgileThought Brasil-Consultoria Em Tecnologia LTDA (01-42); AgileThought Brasil Servicos de Consultoria Em Software (01-20); AgileThought Costa Rica S.A. (6822); AgileThought Digital Solutions, S.A.P.I. de C.V. (3KR0); AgileThought México S.A. de C.V. (7E46); AgileThought, LLC (7076); AgileThought Servicios Administrativos, S.A. de C.V. (4AG1); AgileThought Servicios México S.A. de C.V. (8MY5); AgileThought, S.A.P.I. de C.V. (No Tax ID); AGS Alpama Global Services USA, LLC (0487); AN Data Intelligence, S.A. de C.V. (8173); AN Extend, S.A. de C.V. (1D80); AN Evolution, S. de R.L. de C.V. (7973); AN USA (5502); AN UX, S.A. de C.V. (7A42); Cuarto Origen, S. de R.L. de C.V. (0IQ9); Entrepids México, S.A. de C.V. (OCYA); Entrepids Technology Inc. (No Tax ID); Facultas Analytics, S.A.P.I. de C.V. (6G37); Faktos Inc., S.A.P.I. de C.V. (3LLA); IT Global Holding LLC (8776); and QMX Investment Holdings USA, Inc. (9707). The Debtors’ headquarters are located at 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039.
2. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Bidding Procedures Order.

The Debtors are also seeking authorization to enter into an Asset Purchase Agreement with an entity organized and controlled by the Agent (as defined herein) (the “Stalking Horse Bidder”), pursuant to an Asset Purchase Agreement dated as of [●], 2023 in substantially the form attached to the Bidding Procedures Motion an Exhibit 2 (the “Stalking Horse APA”) with. The hearing to consider entry of an order authorizing, inter alia, the Debtors to enter into the Stalking Horse Bidder or, in the event the Stalking Horse Bidder is not the Successful Bidder, then an alternative asset purchase agreement with the Successful Bidder. The Stalking Horse APA is attached to the Bidding Procedures Order as Exhibit 2. APA will be held before the Bankruptcy Court on October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) (the “Stalking Horse Hearing”).

These Bidding Procedures also provide that the Debtors, in consultation with the Consultation Parties (as defined herein), may consider competing bids (each, a “Chapter 11 Plan Bid”) in the form of a chapter 11 plan of reorganization (a “Chapter 11 Plan Transaction”), subject to the requirements set forth herein.

ANY PARTY INTERESTED IN BIDDING ON THE ASSETS SHOULD CONTACT:

- (A) **THE INVESTMENT BANKER FOR THE DEBTORS, GUGGENHEIM SECURITIES, LLC, 330 MADISON AVENUE, NEW YORK, NY 10017 (ATTN: STEPHEN PREEFER (STEPHEN.PREEFER@GUGGENHEIMPARTNERS.COM), JIM SUPRENANT (JIM.SUPRENANT@GUGGENHEIMPARTNERS.COM), AND SCOTT GREEN (SCOTT.GREEN@GUGGENHEIMPARTNERS.COM)); AND**
- (B) **COUNSEL FOR THE DEBTORS, HUGHES HUBBARD & REED LLP, HUGHES HUBBARD & REED LLP, ONE BATTERY PARK PLAZA, 16TH FLOOR, NEW YORK, NY 10004 (ATTN: KATHRYN A. COLEMAN, ESQ. (KATIE.COLEMAN@HUGHESHUBBARD.COM), CHRISTOPHER GARTMAN, ESQ. (CHRIS.GARTMAN@HUGHESHUBBARD.COM), AND ELIZABETH A. BEITLER, ESQ. (ELIZABETH.BEITLER@HUGHESHUBBARD.COM)).**

Summary of Key Dates Established by Bidding Procedures

| Event | Date |
|---|---|
| Deadline to file Cure Costs Motion | September 15, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Cure Objection Deadline | September 27, 2023 at 4:00 p.m. (prevailing Eastern Time) |
| <u>Stalking Horse Hearing and Hearing on Cure</u> | October 4, 2023 at 2:00 p.m. (prevailing Eastern Time) |

| Event | Date |
|---|--|
| Costs Motion | |
| <u>Deadline for Debtors to file an initial form of Sale Order</u> | <u>[October 26], 2023 at 4:00 p.m. (prevailing Eastern Time), or such date that is seven (7) calendar days in advance of the Sale Objection Deadline</u> |
| <u>Sale Objection Deadline</u> | <u>[November 2], 2023 at 4:00 p.m. (prevailing Eastern Time)</u> |
| Bid Deadline | November 9, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Deadline for Debtors to Designate Qualified Bids and Baseline Bid | November 10, 2023 at 5:00 p.m. (prevailing Eastern Time) |
| Auction | November 13, 2023 at 11:00 a.m. (prevailing Eastern Time) |
| Sale Objection Deadline | [November 2], 2023 at 4:00 p.m. (prevailing Eastern Time) |
| Debtors' Deadline to Reply to Sale Objections | [November 13], 2023 at 4:00 p.m. <u>6:00 p.m.</u> (prevailing Eastern Time) |
| Supplemental Sale Objection Deadline | [November 15], 2023 at 10:00 a.m. (prevailing Eastern Time) |
| Sale Hearing | [November 16], 2023 at [●] (prevailing Eastern Time) |

Stalking Horse Bidder

~~Prior to the entry of the Bidding Procedures Order, the Debtors entered into the Stalking Horse APA with the Stalking Horse Bidder. As set forth more fully in the Stalking Horse APA, the Stalking Horse Bidder is (i) credit bidding \$100,000,000 on account of the DIP Obligations and the Prepetition IL Obligations (as each term is defined in the DIP Order),²(ii) assuming certain liabilities and executory contracts and unexpired leases of the Debtors, and (iii) satisfying cure costs. The Stalking Horse APA also includes various customary representations, warranties, and covenants by and from the Debtors and the Stalking Horse Bidder, and certain conditions to closing and rights of termination related to the Sale and the Debtors' chapter 11 cases (the "Chapter 11 Cases") generally.~~

~~The Stalking Horse Bidder is deemed to be a Qualified Bidder (as defined below) and the Stalking Horse APA is deemed to be a Qualified Bid (as defined below). Subject to the DIP Order, the Stalking Horse Bidder is credit bidding pursuant to 363(k) of the Bankruptcy Code, and thus is not required to make a Good Faith Deposit (as defined below) with the Debtors. The Stalking Horse Bidder shall have the unqualified right at any time to credit bid on a dollar for dollar basis up to the full amount of the Prepetition Obligations and the DIP Obligations pursuant to section 363(k) of the Bankruptcy Code.~~

Assets to be Sold

The Debtors are offering for sale the Assets, *provided* that the Debtors, in consultation with the Consultation Parties, determine that the aggregate consideration offered by any bid, or combination of bids, for the Assets, satisfies the requirements set forth in these Bidding Procedures. Qualified Bidders may bid on all or any number or combination of the Assets.

Participation Requirements

To receive due diligence information, including full access to the Debtors' electronic data room (the "Data Room") and to additional non-public information regarding the Debtors, a potential bidder (each, an "Interested Party") must have delivered to each of: (i) counsel to the Debtors: (a) Hughes Hubbard & Reed LLP, One Battery Park Plaza, 16th Floor, New York, NY 10004 (Attn: Kathryn A. Coleman, Esq. (katie.coleman@hugheshubbard.com), Christopher Gartman, Esq. (chris.gartman@hugheshubbard.com), and Elizabeth A. Beitler, Esq. (elizabeth.beitler@hugheshubbard.com)); and (b) Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19801 (Attn: Jeremy W. Ryan, Esq. (jryan@potteranderson.com)); and (ii) investment banker to the Debtors: Guggenheim Securities, LLC, 330 Madison Avenue, New York, NY 10017 (Attn: Stephen Preefer (Stephen.Preefer@guggenheimpartners.com), Jim Suprenant (Jim.Suprenant@guggenheimpartners.com), and Scott Green

~~2. For purposes of these Bidding Procedures, "DIP Order" means that certain *Interim Order (I) Authorizing the Debtors to (A) Obtain Post Petition Financing and (B) Utilize Cash Collateral, (II) Granting Senior Secured Priming Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to the Prepetition IL Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Docket No. 65] (the "DIP Order"), together with any other orders approving the DIP Facility on an interim or final basis.~~

(Scott.Green@guggenheimpartners.com)), the following documents (the “Preliminary Bid Documents”):

- (a) documentation identifying the Interested Party, its principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) an executed confidentiality agreement in form and substance satisfactory to the Debtors;
- (c) a statement and other factual support demonstrating to the Debtors’ reasonable satisfaction, after consultation with the Consultation Parties, that the Interested Party has a bona fide interest in consummating a transaction involving the Assets; and
- (d) sufficient information, as determined by the Debtors, after consultation with the Consultation Parties, to allow the Debtors to determine that the Interested Party (x) has, or can obtain, the financial wherewithal and any required internal corporate, legal, or other authorizations to close a transaction for the Assets, including, but not limited to, current audited financial statements of the Interested Party (or such other form of financial disclosure acceptable to the Debtors in their discretion), and (y) can provide adequate assurance of future performance under any executory contracts and unexpired leases to be assumed by the Debtors and assigned to Interested Party, pursuant to section 365 of the Bankruptcy Code, in connection with the Sale.

Only those Interested Parties who have submitted acceptable Preliminary Bid Documents (each, a “Qualified Bidder”) may submit bids. ~~For the avoidance of doubt, the Stalking Horse Bidder has been deemed to be a Qualified Bidder and is not required to provide any of the foregoing Preliminary Bid Documents.~~

~~Notwithstanding~~For the avoidance of doubt, notwithstanding anything to the contrary herein, ~~and for the avoidance of doubt,~~in the event the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA for all purposes under the Bidding Procedures: (i) the Stalking Horse Bidder is not required to provide any of the foregoing Preliminary Bid Document; (ii) the Stalking Horse Bidder shall be considered a Qualified Bidder; and ~~(iii)~~ the Stalking Horse APA shall be considered a Qualified Bid, without regard to any of the requirements or conditions set forth herein and without any other or further action by the Stalking Horse Bidder.

Additionally, in determining whether Interested Parties constitute Qualified Bidders, the Debtors, in consultation with the Consultation Parties, may consider a combination of bids for the Assets.

Bankruptcy Court Jurisdiction

Any Interested Parties and Qualified Bidders shall: (a) be deemed to have waived any right to a jury trial in connection with, and consented and submitted to the exclusive jurisdiction of the Court over, any actions or proceedings arising from or relating the Bidding Procedures, the Sale, the Auction, and the construction and enforcement of the contemplated transaction documents of such parties; (b) bring any such action or proceeding in the Court; and (c) be

deemed to have consented to the Court entering a final judgment determining any such action or proceeding and that such final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law.

Due Diligence

The Debtors will provide any Qualified Bidder with reasonable access to the Data Room and any other additional information that the Debtors believe to be reasonable and appropriate under the circumstances. All additional due diligence requests shall be directed to: (a) investment banker for the Debtors, Guggenheim Securities, LLC; or (b) counsel for the Debtors, Hughes Hubbard & Reed LLP.

The due diligence period shall extend through and including the Bid Deadline. The Debtors, in their business judgment, may, but shall not be obligated to, furnish any due diligence information after the Bid Deadline.

The Debtors reserve the right, in their reasonable discretion, to withhold or limit access to any due diligence information that the Debtors determine is business-sensitive or otherwise not appropriate for disclosure to a Qualified Bidder. Notwithstanding any prepetition limitations, including, without limitation, any non-disclosure, confidentiality, or similar provisions relating to any due diligence information, the Debtors and their estates shall be authorized to provide due diligence information to Interested Parties *provided* that such Interested Parties have delivered an executed confidentiality agreement in form and substance acceptable to the Debtors. The Debtors and their estates are not responsible for, and shall have no liability with respect to, any information obtained by, or provided to, any Interested Parties in connection with the Bidding Procedures and the Sale.

Bid Requirements

~~Other than in the case of the Stalking Horse Bidder and the Stalking Horse APA, which shall be considered a Qualified Bidder and a Qualified Bid, respectively, for all purposes under the Bidding Procedures, without regard to any of the requirements or conditions set forth therein and without any other or further action by the Stalking Horse Bidder, to~~To be deemed a “Qualified Bid,” a bid must be received from a Qualified Bidder by each of the Bid Notice Parties (as defined herein) on or before the Bid Deadline and include the following items:

- (a) a letter stating that the Qualified Bidder’s offer is irrevocable until consummation of a transaction involving the Assets (or lot thereof) identified in such offer (such Assets, the “Bid Assets”);
- (b) other than for any Chapter 11 Plan Bid, a duly authorized and executed purchase agreement based on the form purchase agreement provided by the Debtors (through their advisors), marked to show any revisions, including, among other things, the purchase price for the Bid Assets, together with all exhibits and schedules thereto (including, among other things, a proposed form of order approving the transaction(s) contemplated in such purchase agreement). For the

avoidance of doubt, a “conceptual” or “issues list”-style markup of the form asset purchase agreement would not satisfy this requirement;

- (c) each Chapter 11 Plan Bid must be accompanied by an executed investment agreement, signed by an authorized representative of such bidder, pursuant to which the bidder proposes to effectuate the Chapter 11 Plan Transaction, in the form of a non-taxable recapitalization transaction effectuated pursuant to a chapter 11 plan of reorganization, and must provide for a fully-committed investment of capital in exchange for substantially all of the equity of the reorganized Debtors;
- (d) written evidence acceptable to the Debtors, in their discretion and in consultation with the Consultation Parties, demonstrating financial wherewithal, operational ability, and corporate authorization to consummate the proposed transaction;
- (e) a written acknowledgment that the Qualified Bidder (i) has had an opportunity to conduct any and all due diligence regarding the Bid Assets, the Sale, and/or a Chapter 11 Plan Transaction, (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and any other information in making the bid, (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, by the Debtors or any of their advisors or other representatives, including, without limitation, the Debtors’ investment banker, Guggenheim Securities, LLC, regarding the bid, the Bid Assets, the Sale, the Chapter 11 Plan Transaction, or the completeness or accuracy of any information provided in connection therewith or with the Auction, except as expressly stated in these Bidding Procedures, and (iv) the Qualified Bidder did not engage in any collusive conduct and acted in good faith in submitting its bid; and
- (f) 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, in either case which is satisfactory to the Debtors in their discretion, in consultation with the Consultation Parties.

A bid will be considered only if the bid:

- (a) fully discloses 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 Qualified Bidder, including if such Qualified Bidder is an entity formed for the purpose of consummating the proposed transaction contemplated by such bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any bid. Each bid must also include contact information for the specific person(s) and counsel whom the Debtors or their advisors should contact regarding such bid. Nothing herein shall preclude multiple Qualified Bidders from submitting a joint bid, subject to the Debtors’

prior written consent to such submission and the disclosure requirements set forth herein.

- (b) other than for a Chapter 11 Plan Bid, identifies the Bid Assets to be purchased and the contracts and leases to be assumed;
- (c) other than for a Chapter 11 Plan Bid, identifies the liabilities of the Debtors or the Bid Assets to be assumed;
- (d) includes a statement of proposed terms for employees;
- (e) sets forth the consideration, including the form thereof, for the Bid Assets to be purchased and the executory contracts and unexpired leases to be assumed (the “Bid Value”); *provided that, if the Debtors are authorized to enter into the Stalking Horse APA at the Stalking Horse Hearing, the Bid Value must be at least equal to the following: (i) \$100,000,000; plus (ii) assumption of those Assumed Liabilities provided for in the Stalking Horse APA ~~that the Stalking Horse Bidder has agreed to pay or assume or the cash equivalent of such amount;~~ plus (iii) to the extent approved at the Stalking Horse Hearing, the Expense Reimbursement, plus (iv) cash equal to the amount of any increase in the transaction fee due to Debtors’ investment banker, Guggenheim Securities, LLC, that would be payable on account of the consummation of a sale based on the Bid Value; plus (v) the minimum overbid amount of \$250,000;*
- (f) allocates the Bid Value among the Bid Assets and Contracts and Leases to be assumed (per lot of Assets);
- (g) is not conditioned on (i) obtaining financing or (ii) the outcome of unperformed due diligence;
- (h) includes a description of all governmental, licensing, regulatory, or other approvals or consents that are required to consummate the proposed transaction (including any antitrust approval related to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended), together with evidence satisfactory to the Debtors, in consultation with the Consultation Parties, of the ability to obtain such approvals or consents as soon as reasonably practicable, and in no event later than November 17, 2023 at 5:00 p.m. (prevailing Eastern Time), 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;
- (i) provides for the Qualified Bidder to serve as a backup bidder (the “Back-Up Bidder”) if the Qualified Bidder’s bid is the next highest and best bid (the “Back-Up Bid”) after the Successful Bid, in accordance with the terms of the Successful Bidder’s asset purchase agreement;
- (j) includes a signed writing stating that the Qualified Bidder’s offer is irrevocable until the selection of the Successful Bidder, provided that if such Qualified

Bidder is selected as the Successful Bidder (as defined below) or the Back-Up Bidder, its offer shall remain irrevocable until the later of (i) the closing of the transaction with the Successful Bidder, and (ii) November 27, 2023;

- (k) 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 ten percent of the Bid Value (any such deposit, a “Good Faith Deposit”);³³
- (l) sets forth the representatives that are authorized to appear and act on behalf of the Qualified Bidder in connection with the proposed transaction;
- (m) indicates that the Qualified Bidder will not seek any transaction or break-up fee, expense reimbursement, or similar type of payment and that it waives any substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code;
- (n) includes evidence of the Qualified Bidder’s ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Qualified 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 Qualified Bidder, in a form that will permit the Debtors to disseminate immediately such evidence to the non-Debtor counterparties to such contracts and leases;
- (o) indicates whether or not the Qualified Bidder will assume all cure costs associated with any executory contracts and unexpired leases it intends to assume;
- (p) include written evidence of authorization and approval from the Qualified Bidder’s board of directors (or comparable governing body) with respect to the submission, execution, and delivery of the Qualified Bidder’s asset purchase agreement;
- (q) state or otherwise estimate the types of, and costs or charges for, transition services, if any, the Qualified Bidder would require of or provide to the Debtors, including an estimate of the time any such transition services would be required of or provided to the Debtors;
- (r) provide that in the event of the Qualified Bidder’s breach of, or failure to perform under, the Qualified Bidder’s asset purchase agreement, the Debtors and their estates shall be entitled to pursue all available legal and equitable remedies, including, without limitation, retention of the Good Faith Deposit as part of the damages resulting to the Debtors and their estates for such breach or failure to

³³. For the avoidance of doubt, [to the extent the Bankruptcy Court authorizes the Debtors to enter into the Stalking Horse APA at the Stalking Horse Hearing](#), the retention and return of the Deposit Amount (as defined in the Stalking Horse APA) by the Debtors shall be determined in accordance with the Stalking Horse APA.

perform; and

- (s) includes a commitment to close no later than the date that is 90 days following the Petition Date.

A bid from a Qualified Bidder satisfying all of the above requirements, as determined by the Debtors, in consultation with the Consultation Parties, shall constitute a Qualified Bid. The Debtors reserve the right to work with any Qualified Bidder in advance of the Auction to cure any deficiencies in a bid that is not initially deemed a Qualified Bid. The Debtors will be authorized to approve joint bids in their reasonable discretion, in consultation with the Consultation Parties, on a case-by-case basis.

Each Qualified Bidder submitting a bid shall be deemed to: (a) acknowledge and represent that it is bound by all of the terms and conditions of the Bidding Procedures; and (b) have waived the right to pursue a substantial contribution claim under section 503 of the Bankruptcy Code related in any way to the submission of its bid, the Bidding Procedures, and the Sale.

Bid Deadline

A Qualified Bidder, ~~other than the Stalking Horse Bidder,~~ that desires to make a bid shall deliver a written and electronic copy of its bid in both PDF and MS-WORD format to the Bid Notice Parties and the Consultation Parties so as to be received on or before **November 9, 2023 at 5:00 p.m. (prevailing Eastern Time)** (the “Bid Deadline”); *provided* that the Debtors may extend the Bid Deadline without further order of the Court, subject to the DIP Credit Agreement and, to the extent approved, the Stalking Horse APA and after consultation with the Consultation Parties. To the extent that the Bid Deadline is extended for all relevant parties, the Debtors shall file a notice on the docket of the Chapter 11 Cases indicating the same. **Any party that does not submit a bid by the Bid Deadline will not be allowed to (a) submit any offer after the Bid Deadline, or (b) participate in the Auction.**

Evaluation of Qualified Bids

The Debtors, in consultation with the Consultation Parties, shall make a determination regarding whether a timely submitted bid from a Qualified Bidder is a Qualified Bid.

No later than November 10, 2023 at 5:00 p.m. (prevailing Eastern Time), the Debtors shall: (i) notify all Qualified Bidders whether their respective bids have been determined to be Qualified Bids; and (ii) determine, in consultation with the Consultation Parties, which of the Qualified Bids, at such time, is the highest or best bid for purposes of constituting the opening bid at the Auction (the “Baseline Bid”), and ~~shall promptly notify the Stalking Horse Bidder,~~ the Bid Notice Parties and all Qualified Bidders with Qualified Bids of the Baseline Bid.

No Qualified Bids

~~If~~ To the extent the Debtors are authorized to enter into the Stalking Horse APA at the Stalking Horse hearing, if no timely Qualified Bids other than the Stalking Horse APA are

submitted on or before the Bid Deadline, the Debtors shall not hold an Auction and shall request at the Sale Hearing that the Court approve the Stalking Horse APA and the transactions contemplated thereunder.

Auction

If the Debtors timely receive ~~one or more~~ than one Qualified Bids ~~other than~~(including, if approved, the Stalking Horse APA;) then the Debtors shall conduct an auction (the “Auction”). Following the Auction, the Debtors will determine, in consultation with the Consultation Parties, which Qualified Bid is the highest or best bid for the Assets, which will be determined by considering, among other things, the following non-binding factors: (a) 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, (b) the anticipated timing to closing; (c) if applicable, the number, type, and nature of any changes to the Stalking Horse APA requested by each Qualified Bidder; (d) the extent to which such modifications are likely to delay closing of the Sale and the cost to the Debtors and their estates of such modifications or delay; (e) in the case of a Chapter 11 Plan Transaction, the structure, confirmability, and feasibility of any proposed chapter 11 plan (including the proposed time and costs estimated to be necessary to negotiate, document, and obtain confirmation of such proposed chapter 11 plan); (f) the total consideration to be received by the Debtors and their estates; and (g) any other factors the Debtors may reasonably deem relevant.

The Auction shall be governed by the following procedures:

- (a) the Auction shall be held on **November 13, 2023 at 11:00 a.m. (prevailing Eastern Time)** at the offices of Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, NY 10004 or virtually via telephone or video conference pursuant to information to be timely provided by the Debtors to the Auction Participants (as defined below);
- (b) only ~~the Stalking Horse Bidder and the other~~ Qualified Bidders with Qualified Bids (together, the “Auction Bidders”) shall be entitled to make any subsequent bids at the Auction;
- (c) the Auction Bidders shall appear at the Auction, or through a duly authorized representative;
- (d) only the Debtors, the Auction Bidders, the Consultation Parties, and any creditors of the Debtors, together with the professional advisors to each of the foregoing parties, may attend the Auction (collectively, the “Auction Participants”); *provided* that any such creditors provide counsel for the Debtors written notice of their intent to attend the Auction no later than 5:00 p.m. (ET) the day prior to the Auction;
- (e) the Debtors, with the assistance of their professional advisors, shall direct and preside over the Auction, which shall be transcribed;

- (f) prior to start of the Auction, each of the Auction Bidders shall confirm that they have not engaged in any collusion with respect to the Bidding Procedures, the Auction, or the Sale;
- (g) the Auction shall be conducted in an open-cry format (and not by way of sealed bids);
- (h) during the Auction, bidding will begin initially with the Baseline Bid and subsequently continue in minimum increments of at least \$250,000 in cash (each, an “Overbid”); *provided, however, that, if applicable, the Stalking Horse Bidder may satisfy the minimum bid increment requirement by credit bidding at least \$250,000 of outstanding Prepetition 1L Obligations and DIP Obligations (each as defined in the DIP Motion) (up to the amount outstanding as of the projected closing date of the Sale (including but not limited to, principal, accrued and unpaid interest, and all outstanding fees and expenses and other amounts owed under the Prepetition 1L Credit Agreement and the DIP Documents (each as defined in the DIP Motion), respectively) that do not already form a part of the purchase price under the Stalking Horse APA as well as credit bidding the Expense Reimbursement (up to the amount of the Stalking Horse Bidder’s estimate of amount incurred as of the date of the Auction). The Debtors will announce at the Auction the material terms of each Overbid, value each Overbid in accordance with these Bid Procedures and provide each Qualified Bidder with an opportunity to make a subsequent Overbid. Subject to the requirement (other than with regard to the Stalking Horse Bidder, if applicable) that each Overbid include at least \$250,000 in cash more than the cash component of the Baseline Bid or prevailing Overbid, additional consideration in excess of the amount set forth in the Baseline Bid or the prevailing Overbid may include cash and/or other consideration in accordance with these procedures. To the extent that an Overbid has been accepted entirely or in part because of the addition, deletion, or modification of a provision or provisions in the applicable Transaction Documents or the Stalking Horse APA, the Debtors will provide notice to each participant of the value ascribed by the Debtors to any such added, deleted, or modified provision or provisions, with such value being determined by the Debtors in consultation with the Consultation Parties;*
- (i) any Overbid made from time to time by a Qualified Bidder must remain open and binding on the Qualified Bidder until and unless (i) the Debtors accept a bid submitted by another Qualified Bidder during the Auction as an Overbid and (ii) such prior Overbid is not selected as the Back-Up Bid. To the extent not previously provided (which will be determined by the Debtors in consultation with the Consultation Parties), a Qualified Bidder submitting an Overbid must submit at the Debtors’ request (in consultation with the Consultation Parties), 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) demonstrating such Qualified Bidder’s ability to close the transaction at the purchase price

contemplated by such Overbid;

- (j) the Auction may include individual negotiations with any of the Auction Bidders, but all bids shall be made on the record and in the presence of all of the Auction Bidders;
- (k) all material terms of the bid that is deemed to be the highest and best bid for each round of bidding shall be fully disclosed to the Auction Bidders, and the Debtors shall use reasonable efforts to address any and all questions that the Auction Bidders may have regarding the Debtors' announcement of the then-current highest and best bid;
- (l) except as specifically set forth herein, for the purpose of evaluating the value of the purchase price for the Bid Assets provided by each successive bid (including any successive bid by the Stalking Horse Bidder, if applicable), the Debtors, in consultation with the Consultation Parties, may give effect to any additional liabilities to be assumed by a Qualified Bidder, and any additional costs which may be imposed on the Debtors;
- (m) each Auction Bidder shall (i) be deemed to have waived any right to a jury trial in connection with, and consented and submitted to the exclusive jurisdiction of the Court over, any actions or proceedings arising from or relating the Bidding Procedures, the Sale, the Auction, and the construction and enforcement of the contemplated transaction documents of the Auction Bidders, (ii) bring any such action or proceeding in the Court, and (iii) be deemed to have consented to the Court entering a final judgment determining any such action or proceeding and that such final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law;
- ~~(n) throughout the Auction, subject to section 363(k) of the Bankruptcy Code, the Stalking Horse Bidder (i) shall have the continuing right to credit bid DIP Obligations then outstanding, or any part thereof, to purchase the Assets, and (ii) shall have the continuing right to credit bid the Prepetition 1L Obligations then outstanding, or any part thereof, to purchase the Assets.~~
- (n) ~~(e)~~ the Auction Bidders shall have the right to make additional modifications to the Stalking Horse APA or any alternative asset purchase agreement, as applicable, in conjunction with each Qualified Bid submitted in each round of bidding during the Auction, provided that (i) any such modifications on an aggregate basis and viewed in whole, shall not, in the Debtors' discretion, in consultation with the Consultation Parties, be less favorable to the Debtors and their estates than the terms of the Stalking Horse APA, if applicable, and (ii) each Qualified Bid shall constitute an irrevocable offer and shall be binding on the Auction Bidder submitting such bid until such party shall have submitted a subsequent Qualified Bid at the Auction or the conclusion of the Sale Hearing,

whichever occurs sooner, unless such bid is selected as the Successful Bid or the Back-Up Bid, which shall remain binding as provided for herein;

- (o) ~~(p)~~ the Debtors and the Consultation Parties shall have the right to request any additional financial information that will allow the Debtors and the Consultation Parties to make a reasonable determination as to an Auction Bidder's financial and other capabilities to consummate the transactions contemplated by the Stalking Horse APA or any Alternative APA, as applicable, as may be amended during the Auction, and any further information that the Debtors may believe is reasonably necessary to clarify and evaluate any bid made by an Auction Bidder during the Auction;
- (p) ~~(q)~~ upon the conclusion of the Auction, the Debtors shall determine, in consultation with the Consultation Parties, and subject to Court approval, the offer or offers for the Assets that is or are the highest or best from among the Qualified Bids submitted at the Auction (including, if applicable, the Stalking Horse APA) (the "Successful Bid"). In making this decision, the Debtors shall consider, in consultation with the Consultation Parties, the amount of the purchase price, the assumption of liabilities, the likelihood of the bidder's ability to close a transaction and the timing thereof, the number, type, and nature of any changes to the Stalking Horse APA or other asset purchase agreement submitted with the Successful Bid, as applicable, requested by each bidder, and the net benefit to the Debtors' estates. The bidder submitting such Successful Bid at the Auction shall become the "Successful Bidder," and shall have such rights and responsibilities of the purchaser as set forth in the ~~Stalking Horse APA or an alternative~~applicable asset purchase agreement, ~~as applicable~~. The Debtors shall designate a Back-Up Bid (and the corresponding Back-Up Bidder ~~which may be the Stalking Horse Bidder subject to the Stalking Horse Bidder's consent~~), to purchase the Assets in the event that the Successful Bidder does not close the Sale;
- (q) ~~(r)~~ without the written consent of the Agent, no bid may qualify as the Successful Bid unless such bid provides for cash consideration of an amount equal to or greater than the Prepetition 1L Obligations and DIP Obligations ~~that have been credit bid subject to section 363(k) of the Bankruptcy Code by the Stalking Horse Bidder~~;
- (r) ~~(s)~~ within one day after the conclusion of the Auction, the Debtors will file with the Court and serve on the Bid Notice Parties a notice setting forth the results of the Auction (the "Notice of Successful Bidder"), which will (a) identify the Successful Bidder and the Backup Bidder; (b) include a copy of the Successful Bid and the Backup Bid or a summary of the material terms of such bids, including any proposed assumption and assignment of executory contracts and unexpired leases contemplated thereby; and (c) set forth the (1) Adequate Assurance Objection Deadline, (2) date, time, and location of the Sale Hearing, and (3) any other relevant dates or other information necessary to reasonably

apprise the Bid Notice Parties of the outcome of the Auction;

- (s) ~~(t)~~ within one (1) business day of the close of the Auction, in the event the Stalking Horse Bidder is not the Successful Bidder (if applicable), the Successful Bidder shall supplement the Successful Bidder's Good Faith Deposit such that the deposit shall be equal to an amount that is ten percent (10%) of the Successful Bid; and
- (t) ~~(u)~~ prior to the Sale Hearing, the Successful Bidder shall complete and execute all agreements, contracts, instruments, and other documents evidencing and containing the terms and conditions upon which the Successful Bid was made.

The Debtors, in consultation with the Consultation Parties, reserve the right to make one or more adjournments in the Auction to, among other things (i) facilitate private discussions with individual Qualified Bidders and negotiate the terms of their Overbids, (ii) allow individual Qualified Bidders to consider how they wish to proceed, and (iii) give Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors may require in their reasonable discretion (and in consultation with the Consultation Parties) to determine that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt or equity funding commitments, to consummate the transaction.

THE SUCCESSFUL BID AND ANY BACK-UP BID AND THEIR RELATED TRANSACTION DOCUMENTS SHALL CONSTITUTE AN IRREVOCABLE OFFER AND BE BINDING ON THE SUCCESSFUL BIDDER AND THE BACK-UP BIDDER, RESPECTIVELY, FROM THE TIME THE BID IS SUBMITTED UNTIL TWO (2) BUSINESS DAYS AFTER THE SALE HAS CLOSED. EACH QUALIFIED BID THAT IS NOT THE SUCCESSFUL BID OR THE BACK-UP BID SHALL BE DEEMED WITHDRAWN AND TERMINATED AT THE CONCLUSION OF THE SALE HEARING.

Sale Hearing

The Successful Bid and any Back-Up Bid ~~(or if no Qualified Bid other than that of the Stalking Horse Bidder is received, then the Stalking Horse APA)~~ will be subject to approval by the Court. The Sale Hearing to approve the Successful Bid and any Back-Up Bid ~~(or if no Qualified Bid other than that of the Stalking Horse Bidder is received, then the Stalking Horse APA)~~ shall take place on [November 16], 2023 at [●] (prevailing Eastern Time). The Sale Hearing may be adjourned by the Debtors, ~~in consultation with the Consultation Parties or, in the event the Stalking Horse Bidder is not the Successful Bidder, then~~ in consultation with the Consultation Parties and the Successful Bidder, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing, or by filing a hearing agenda or notice on the docket of the Chapter 11 Cases.

At the Sale Hearing, the Debtors will seek entry of an order, ~~substantially in the form of the Sale Order~~ that, among other things: (i) authorizes and approves the Sale to the ~~Stalking Horse Bidder or, in the event the Stalking Horse Bidder is not the Successful Bidder, then to the~~

~~Successful Bidder,~~ pursuant to the terms and conditions set forth in the Stalking Horse APA or any alternative asset purchase agreement submitted by the Successful Bidder, as applicable, free and clear of all liens, claims, interests, and encumbrances, except certain permitted encumbrances as determined by the Debtors and any Successful Bidder; (ii) finds that the ~~Stalking Horse Bidder or Successful Bidder, as applicable,~~ is a good faith purchaser pursuant to section 363(m) of the Bankruptcy Code; (iii) authorizes the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale; and (iv) ~~as appropriate, exempts the Sale(s) and conveyance(s) of the Assets from any transfer tax, stamp tax, or similar tax, or deposit under any applicable bulk sales statute; and~~ (v) in the event that the Stalking Horse Bidder is not the Successful Bidder, directs that all cash proceeds generated from the Sale shall be paid to the Agent on behalf of the DIP Lenders and the Prepetition 1L Lenders upon the closing of the Sale for application in accordance with the terms and conditions of the DIP Order, the DIP Documents, and the Prepetition 1L Documents (each as defined in the DIP Order), until the DIP Obligations and the Prepetition 1L Obligations (each as defined in the DIP Order) are paid in full.

Back-Up Bidder

Notwithstanding any of the foregoing, in the event that the Successful Bidder fails to close the Sale on or before November 27, 2023 (or such date as may be extended by the Debtors with the consent of the Agent and in consultation with the Consultation Parties), the Back-Up Bid will be deemed to be the Successful Bid, the Back-Up Bidder will be deemed to be the Successful Bidder, and the Debtors shall be authorized to close the Sale to the Back-Up Bidder subject to the terms of the Back-Up Bid without the need for further order of the Court and without the need for further notice to any interested parties.

Return of Good Faith Deposits

All Good Faith Deposits shall be returned to each bidder not selected by the Debtors as the Successful Bidder no later than five (5) business days following the closing of the Sale. The deposit of the Successful Bidder or, if the Sale is closed with the Back-Up Bidder, the deposit of the Back-Up Bidder, shall be applied to the purchase price for the Sale. If the Successful Bidder (or, if the Sale is to be closed with the Back-Up Bidder, then the Back-Up Bidder) fails to consummate the Sale because of a breach or failure to perform on the part of such bidder, then, subject to the terms of the Stalking Horse APA or any alternative asset purchase agreement, as applicable, the Debtors and their estates shall be entitled to retain the Good Faith Deposit of the Successful Bidder (or, if the Sale is to be closed with the Back-Up Bidder, then the Back-Up Bidder) as part of the damages resulting to the Debtors and their estates for such breach or failure to perform. For the avoidance of doubt, the Debtors' retention of a Good Faith Deposit shall not constitute a waiver of any of the Debtors' legal or equitable rights relating to a Successful Bidder's or Back-Up Bidder's breach or failure to perform, and all such rights and remedies are preserved.

No-Shop or No-Solicitation Provisions

Neither the Bidding Procedures Order nor these Bidding Procedures limit the Debtors' ability or right to solicit higher or otherwise better bids. The Sale contemplated by the Motion,

these Bidding Procedures, and the Bidding Procedures Order calls for a fair and open bidding and auction process.

Notice and Consultation Parties

The term “Bid Notice Parties” as used in these Bidding Procedures shall mean: (a) the Debtors: 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039, (Attn: Diana P. Abril, Esq., Chief Legal Officer (diana.abril@agilethought.com)); (b) counsel to the Debtors, Hughes Hubbard & Reed LLP, One Battery Park Plaza, 16th Floor, New York, NY 10004 (Attn: Kathryn A. Coleman, Esq. (katie.coleman@hugheshubbard.com), Christopher Gartman, Esq. (chris.gartman@hugheshubbard.com), and Elizabeth A. Beitler, Esq. (elizabeth.beitler@hugheshubbard.com)); (c) co-counsel to the Debtors, Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19801 (Attn: Jeremy W. Ryan, Esq. (jryan@potteranderson.com)); (d) investment banker to the Debtors: Guggenheim Securities, LLC, 330 Madison Avenue, New York, NY 10017 (Attn: Stephen Preefer (Stephen.Preefer@guggenheimpartners.com), Jim Suprenant (Jim.Suprenant@guggenheimpartners.com), and Scott Green (Scott.Green@guggenheimpartners.com)); (e) counsel to ~~any~~the Official Committee of Unsecured Creditors appointed by the U.S. Trustee, ~~if any~~ (the “Committee”), [Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801 \(Attn: Bradford J. Sandler \(\[bsandler@pszjlaw.com\]\(mailto:bsandler@pszjlaw.com\)\), Colin R. Robinson \(\[crobinson@pszjlaw.com\]\(mailto:crobinson@pszjlaw.com\)\), and Cia Mackle \(\[cmackle@pszjlaw.com\]\(mailto:cmackle@pszjlaw.com\)\)\)](#)); (f) counsel to the Agent and Stalking Horse Bidder, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036-8704 (Attn: Gregg M. Galardi (Gregg.Galardi@ropesgray.com), Robb Tretter (Robb.Tretter@ropesgray.com), and Leonard Klingbaum (Leonard.Klingbaum@ropesgray.com)); and (g) co-counsel to the Agent and Stalking Horse Bidder, Chipman Brown Cicero & Cole, LLP, 1313 N. Market Street Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers (desgross@chipmanbrown.com)).

The term “Consultation Parties” as used in these Bidding Procedures shall mean counsel to the Committee ~~(if any)~~, and the Agent: [provided that, to the extent that the Debtors are authorized to enter into the Stalking Horse APA at the Stalking Horse Hearing, the Agent shall not be a “Consultation Party” for the purpose of evaluating competing Qualified Bids but shall received notice of such bids as soon as practical upon the Debtors’ receipt of such competing Qualifying Bids.](#)

For the avoidance of doubt, any consultation rights provided to the Consultation Parties by these Bidding Procedures shall not limit the Debtors’ discretion in any way and shall not include the right to veto any decision made by the Debtors in the exercise of their business judgment.

In the event that any member of any official or unofficial creditors’ committee or an affiliate of any of the foregoing submits a bid that is a Qualified Bid, any information provided to the Committee will be on a professional eyes only basis and will not be shared with such bidding member of the Committee.

Reservation of Rights

Notwithstanding any of the foregoing, the Debtors, in consultation with the Consultation Parties, may (a) subject to the DIP Credit Agreement and with the consent of the Agent, extend the deadlines set forth in the Bidding Procedures Order or these Bidding Procedures, and (b) adopt, implement, and waive such other, additional, or existing procedures or requirements that in the Debtors' discretion serves to further an orderly Auction and bid process, including, but not limited to, the imposition of a requirement that all Qualified Bidders submit sealed Qualified Bids during the Auction, all without further notice except to the Auction Participants, as appropriate.

The Debtors, in consultation with the Consultation Parties, may (a) determine which Qualified Bid, if any, is the Successful Bid, and (b) reject at any time before entry of the [Proposed](#) Sale Order approving the Successful Bid, any bid that, in the discretion of the Debtors, in consultation with the Consultation Parties, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or these Bidding Procedures, or (iii) contrary to the best interests of the Debtors' estates and their creditors. At or before the conclusion of the Auction, the Debtors, in consultation with the Consultation Parties, may impose such other terms and conditions upon Qualified Bidders as the Debtors determine to be in the best interests of the Debtors' estates in the Chapter 11 Cases.

EXHIBIT 2

~~Stalking Horse~~ APA Sale Notice

EXHIBIT 3

Sale Notice

EXHIBIT 4

Notice of Assumption, Assignment and Sale