

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

COSMOLEDO, LLC, *et al.*⁵

Chapter 11

Case No. 20-12117 (MEW)

Debtors.

Jointly Administered

**NOTICE OF AUCTION SALE AND HEARING ON APPROVAL OF SALE OF
DEBTORS' ASSETS, FREE AND CLEAR OF ALL LIENS, CLAIMS AND
ENCUMBRANCES, SUBJECT TO HIGHER OR BETTER OFFERS PURSUANT
TO SECTION 363(b) OF THE BANKRUPTCY CODE**

TO ALL CREDITORS OF THE DEBTOR AND OTHER NOTICE PARTIES:

PLEASE TAKE NOTICE that on September 10, 2020 (the "Petition Date"), Cosmoledo LLC, and its affiliated debtors and debtors in possession herein (the "Debtors"), filed voluntary petitions under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York.

PLEASE TAKE FURTHER NOTICE that the Debtors have filed a motion (the "Motion")⁶ seeking approval of a certain asset purchase agreement and related transaction documents (collectively, the "Sale Agreement") by and between the Debtors, as seller, and MK USA, LLC ("Purchaser"), pursuant to which, among other things, the Debtors propose to sell substantially all of its assets (the "Assets") to the Purchaser, free and clear of all liens, claims and encumbrances, and subject to higher or better offers (the "Sale").

PLEASE TAKE FURTHER NOTICE that at a hearing held on September 30, 2020, the Bankruptcy Court entered an order approving the Bidding Procedures and the Bid Protections (the "Bidding Procedures Order").

PLEASE TAKE FURTHER NOTICE that an Auction (as defined in the Bidding

⁵ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Cosmoledo, LLC (6787); Breadroll, LLC, (3279); 688 Bronx Commissary, LLC (6515); 95 Broad Commissary, LLC (2335); 178 Bruckner Commissary, LLC (2581); 8 West Bakery, LLC (6421); NYC 1294 Third Ave Bakery, LLC (2001); 921 Broadway Bakery, LLC (2352); 1800 Broadway Bakery, LLC (8939); 1535 Third Avenue Bakery, LLC (1011); 2161 Broadway Bakery, LLC (2767); 210 Joralemon Bakery, LLC (4779); 1377 Sixth Avenue Bakery, LLC (9717); 400 Fifth Avenue Bakery, LLC (6378); 1400 Broadway Bakery, LLC (8529); 575 Lexington Avenue Bakery, LLC (9884); 685 Third Avenue Bakery, LLC (9613); 370 Lexington Avenue Bakery, LLC (0672); 787 Seventh Avenue Bakery, LLC (6846); 339 Seventh Avenue Bakery, LLC (1406); and 55 Hudson Yards Bakery, LLC (7583).

⁶ Capitalized terms not otherwise defined herein have the respective meanings ascribed to such terms in the Motion.

Procedures) will be held on **October 23, 2020 at 10:00 a.m.** (Eastern time) at the offices of Mintz & Gold LLP, proposed attorneys for the Debtors, 600 Third Ave., 25th Fl., New York, New York 10016, or by videoconference, to consider any higher and better offers in accordance with the Bidding Procedures.

PLEASE TAKE FURTHER NOTICE that a hearing will be held on **October 29, 2020, 2020 at 10:00 a.m.** (Eastern time) before the Honorable Michael E. Wiles United States Bankruptcy Judge, at the United States Bankruptcy Court, 1 Bowling Green, New York, New York 10004, to consider approval of the Sale Agreement or any higher and better offer(s) by the Successful Bidder(s) (the “Sale Hearing”).

PLEASE TAKE FURTHER NOTICE that the Motion seeks approval of the assumption and assignment of certain executory contracts and unexpired leases to be identified by the Purchaser or other Successful Bidder pursuant to section 365 of the Bankruptcy Code and Bankruptcy Rule 6006. Appendix B to the Bidding Procedures Order sets forth a list of all of the Debtors’ executory contracts and unexpired leases, together with a statement of the Cure Costs (if any) associated with each such contract and lease, calculated in accordance with the Debtors’ books and records. In connection with the potential assumption and assignment of the executory contracts and unexpired leases, the Bankruptcy Court, pursuant to the Bidding Procedures Order, has directed that all non-debtor parties to any executory contract or unexpired lease electronically file with the Clerk of the Bankruptcy Court a cure claim, setting forth all claims and arrearages against the Debtors due under such contract or lease (the “Cure Claims”), and serve a copy of the Cure Claim upon (i) Mintz & Gold LLP, proposed attorneys for the Debtor, 600 Third Ave., 25th Fl., New York, New York 10016, Attn: Andrew Gottesman, Esq., gottesman@mintzandgold.com; (ii) Katten Muchin Rosenman LLP, 575 Madison Avenue New York, New York 10022, Attn: Jerry L. Hall, Esq., jerry.hall@katten.com, counsel to the Purchaser; and (iii) Hahn & Hessen LLP, 488 Madison Avenue, New York, NY 10022, Attn: Mark Indelicato, Esq., mindelicato@hahnhausen.com, counsel to the Official Committee of Unsecured Creditors, so as to be received on or before **October 27, 2020 at 12:00 p.m.** (Eastern time), provided, however, that any party that is required to file a Cure Claim, but fails to do so, shall be bound by the cure amount as set forth on Appendix B to the Bidding Procedures Order, and shall be forever barred from asserting any other Cure Claim against the Debtor, its estate, the Purchaser, or its designee, and/or any Successful Bidder arising under such executory contract or unexpired lease.

PLEASE TAKE FURTHER NOTICE that the following is a general explanation of the salient terms of the Sale Agreement.⁷

Purchased Assets. The Sale Agreement contemplates the Debtors will sell, convey, assign and transfer to the Purchaser all of the Assets (other than the Excluded Assets) on the terms and subject to the conditions set forth in the Sale Agreement. The Assets include, among other things, (i) the equity of the entity in 688 Bronx Commissary, LLC, (ii) all furniture, fixtures and equipment, (iii) any and all acquired claims of the estate against go-forward vendors, parents,

⁷ The following is merely a summary of the Sale Agreement and is qualified in its entirety by the actual, express terms of the Sale Agreement. To the extent there is any discrepancy between this summary and the terms of the Sale Agreement, the terms of the Sale Agreement shall control.

affiliates and shareholders), (iv) Debtors' Intellectual Property, to the extent transferrable, and (v) the assumption of those of the Debtors' real property leases and executory contracts identified as of two days before the Bid Deadline.

Purchase Price. The purchase price for the Assets is (a) cash on the Closing Date in the amount of \$3,000,000, plus (i) Cure Costs relating to any Assigned Contracts and Leases, (ii) other Assumed Liabilities under the Sale Agreement, and (iii) a credit bid of \$5,400,000, subject to contest by the Creditors' Committee prior to the Sale Hearing (collectively, the "Purchase Price").

Assumed Liabilities. The Purchaser is not assuming any liabilities of the Debtors other than (a) liabilities arising from and after the Closing under any Assumed Contracts, and (b) such other liabilities as may be specifically identified in the Sale Agreement.

Assigned Contracts and Leases. The Sale Agreement contemplates that certain executory Contracts and Leases will be assumed and assigned to the Purchaser at Closing (the "Assumed Contracts"). The Purchaser shall be responsible for the payment of any Cure Claims associated with Assumed Contracts.

Excluded Assets. The Debtors are not selling to the Purchaser, and the Assets do not include, any asset specifically identified as being an Excluded Asset set forth in Section 2.2 of the Sale Agreement. Among other things, cash (including cash representing the PPP Loan), accounts receivable and certain claims and causes of action are not being sold.

Conditions to Closing. The Sale Agreement provides that the conditions to closing include, among other things, (a) entry of a final non-appealable order by the Bankruptcy Court authorizing the sale of the Assets to the Purchaser, pursuant to the terms of the Sale Agreement; (b) representations and warranties are true and correct; and (c) no breach of the Sale Agreement.

PLEASE TAKE FURTHER NOTICE, that any of the hearings scheduled by the Bankruptcy Court may be adjourned from time to time without prior notice to creditors or other parties in interest, other than by announcement in Bankruptcy Court of such adjournment on the date of the hearing.

PLEASE TAKE FURTHER NOTICE, that copies of the entire sale package, including the operative Bidding Procedures, the Bidding Procedures Order, the Motion, the Amended and Restated Sale Agreement and the Proposed Sale Order are available for inspection at the website of the Debtors proposed Claims and Noticing Agent and may be viewed at www.donlinrecano.com/maisonkayserusa Bankruptcy Court's website (www.nysb.uscourts.gov); or during regular business hours at the office of the Clerk of the United States Bankruptcy Court, 1 Bowling Green, New York, New York 10004; and you may request a copy by contacting Mintz

& Gold LLP, 600 Third Ave., 25th Fl., New York, New York 10016, Attn: CeCe Cole, Esq., cole@mintzandgold.com or telephone number (212) 696-4848.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the Sale (other than objections with respect to Cure Claims or the auction process and selection of the Successful Bidder), must be (i) filed electronically with the Clerk of the Bankruptcy Court (with a copy to chambers), (ii) state with specificity the basis for such objection, (iii) conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York and (iv) served upon served upon (a) Mintz & Gold LLP 600 Third Ave., 25th Fl., New York, New York 10016, Attn: Andrew Gottesman, Esq., gottesman@mintzandgold.com, proposed counsel for the Debtors; (b) Office of the United States Trustee for the Southern District of New York 201 Varick Street, Room 1006, New York, NY 10014 Attn: Brian Masumoto, Esq., Brian.Masumoto@usdoj.gov; (c) Willkie Farr and Gallagher, 787 Seventh Avenue New York, New York 10019, Attn: Paul V. Shalhoub, Esq., pshalhoub@willkie.com, counsel to the holder of Cosmoledo's equity interests; (d) Katten Muchin Rosenman LLP, 575 Madison Avenue New York, New York 10022, Attn: Jerry L. Hall, Esq., jerry.hall@katten.com, counsel to the Debtors' senior secured lender and Stalking Horse Bidder; (e) Hahn & Hessen LLP, 488 Madison Avenue, New York, NY 10022, Attn: Mark Indelicato, Esq., mindelicato@hahnhausen.com, proposed counsel to the Official Committee of Unsecured Creditors; and (f) all other parties who have requested notice under Bankruptcy Rule 2002 so as to be received no later than **October 21, 2020 at 5:00 p.m.** (Eastern Time).

Dated: October 1, 2020
New York, New York

MINTZ & GOLD LLP

by: /s/ Andrew R. Gottesman
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Proposed Attorneys to the Debtors