

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

In re: Chieftain Sand and Proppant, LLC, <i>et al.</i> Debtors. ¹)))))))	Case No. 17- <u>10064</u> <u>KG</u> Chapter 11 (Jointly Administered) Re: Docket Nos. _____
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ORDER (I) APPROVING BIDDING PROCEDURES IN CONNECTION WITH THE SALE OF SUBSTANTIALLY ALL ASSETS OF THE DEBTORS; (II) SCHEDULING AN AUCTION AND HEARING TO CONSIDER THE SALE OF ASSETS; AND (III) APPROVING THE FORM AND MANNER OF NOTICE THEREOF

Upon the motion (the “**Motion**”)² of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), pursuant to sections 105(a), 363, 365, 503, 506, 507 and 552 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 Rule 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 entry of an order (this “**Bidding Procedures Order**”): (i) approving bidding procedures in connection with the sale of substantially all assets of the Debtors, (ii) scheduling an auction and a hearing to consider the sale of assets, (iii) approving the form and manner of notice thereof; and (iv) granting related relief; and the Court having considered the Motion and all exhibits, objections, and other papers filed in connection therewith; and the Court having determined that the relief provided herein is in the best interest of the Debtors, their estates, creditors and other parties in interest; and due and adequate notice of the Motion having been given under the circumstances; and upon the

¹ The Debtors in these chapter 11 cases, and the last four digits of their respective federal tax identification numbers, are Chieftain Sand and Proppant, LLC (1729) and Chieftain Sand and Proppant Barron, LLC (0418). The Debtors’ service address is: 331 27th Street, New Auburn, WI 54757.

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

record of the hearing on the Motion, and the full record of these cases; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby:

FOUND AND DETERMINED THAT:³

A. This Court has jurisdiction over the Motion and the transactions contemplated therein pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M) and (O). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. Good and sufficient notice of the Motion and the relief sought therein has been given under the circumstances, and no other or further notice is required except as set forth herein with respect to the Auction and Sale Hearing. A reasonable opportunity to object or be heard regarding the relief provided herein has been afforded to parties in interest.

C. The Debtors' proposed notice of the Bidding Procedures is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction, the sale of the Debtors' assets, and the Bidding Procedures to be employed in connection therewith.

D. The Debtors have articulated good and sufficient business reasons for this Court to approve the Bidding Procedures, including: (i) the scheduling of a Bid Deadline, Auction, and Sale Hearing for the sale of the Debtors' assets; and (ii) the establishment of procedures to fix the Cure Amounts to be paid under section 365 of the Bankruptcy Code in connection with the assumption, assignment and/or transfer of the Executory Contracts and Unexpired Leases.

³ Pursuant to Bankruptcy Rule 7052, findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when applicable.

E. The Debtors have demonstrated a compelling and sound justification for authorizing the sale of the Assets and entry into the Agreement as a “stalking horse” sale agreement under the circumstances, timing, and procedures set forth herein, in the Motion, and in the Agreement.

F. Entry into the Agreement, a copy of which is attached to the Motion, is in the best interests of the Debtors and the Debtors’ estates and creditors. The Agreement will enable the Debtors to secure an adequate floor for the Auction and will provide a clear benefit to the Debtors’ estates.

G. The Bidding Procedures are reasonably designed to maximize the value to be achieved for the Debtors’ assets.

H. The entry of this Bidding Procedures Order is in the best interests of the Debtors, their estates, creditors, and other parties in interest.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
THAT:**

1. The Motion is GRANTED as set forth herein.
2. All objections to the Motion or the relief provided herein that have not been withdrawn, waived or settled, and all reservations of rights included therein, hereby are overruled and denied on the merits.
3. The Debtors’ selection of Energy Capital Partners Mezzanine Opportunities Fund A, LP as the Stalking Horse Bidder is approved. The Stalking Horse Bid shall be and hereby is deemed a Qualified Bid for all purposes of the Bidding Procedures and the Stalking Horse Bidder shall be and hereby is deemed a Qualified Bidder for all purposes of the Bidding Procedures.

4. No potential bidder shall be entitled to any breakup fee, overbid fee, termination fee, expense reimbursement, or similar type of payment.

5. The Bidding Procedures, in substantially the form attached hereto as **Exhibit 1**, are hereby incorporated herein and approved, and shall apply with respect to the sale of the Debtors' assets. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures.

6. As further described in the Bidding Procedures, the deadline for submitting Qualified Bids for the Debtors' assets is **March 13, 2017 at 5:00 p.m.** prevailing Eastern time (the "**Bid Deadline**"). No bid shall be deemed to be a Qualified Bid (as defined in the Bidding Procedures) or otherwise considered for any purposes unless such bid meets the requirements set forth in the Bidding Procedures, provided, however, that the Debtors may waive one or more defects and cause a bid to be deemed a Qualified Bid; provided, further, that the Debtors may not waive the Initial Overbid Requirement (as defined in the Bidding Procedures).

7. The Debtors may sell their assets by conducting an Auction in accordance with the Bidding Procedures. If Qualified Bids are timely received by the Debtors in accordance with the Bidding Procedures, the Auction shall take place on **March 22, 2017 at 10:00 a.m.** prevailing Eastern time at the offices of Gibbons P.C., One Gateway Center, Newark, N.J. 07102, or at such other place and time as the Debtors shall notify all Qualified Bidders and other invitees. If, however, no such Qualified Bid is received by the Bid Deadline, then the Auction will not be held.

8. Each Qualified Bidder participating at the Auction will be required to confirm on the record of the Auction that it has not engaged in any collusion with respect to the

bidding or the sale. The Auction will be conducted openly. Bidding at the Auction shall be transcribed or videotaped.

9. The Sale Hearing shall be held before this Court on _____, 2017, at __:00 __.m. (prevailing Eastern Time), or as soon thereafter as counsel and interested parties may be heard.

10. On or before three (3) business days after entry of the Bidding Procedures Order, or as soon thereafter as such parties can be identified, the Debtors will cause a notice in substantially the form annexed hereto as **Exhibit 2** (the “**Notice of Auction and Sale Hearing**”), and a copy of this Bidding Procedures Order, to be sent, by first-class mail, postage prepaid, to the following: (i) the Office of the United States Trustee; (ii) counsel to the DIP Agent; (iii) all parties who are known to assert a security interest, lien, or claim in any of the Assets, if any; (iv) all non-Debtor parties to the Executory Contracts and Unexpired Leases and any parties who are known to claim interests therein; (v) all applicable federal, state, and local taxing authorities; (vi) all applicable county and state consumer protection agencies; (vii) all applicable state attorneys general; (viii) all other government agencies required to receive notice under the Bankruptcy Rules; (ix) the Debtors’ 20 largest unsecured creditors on a consolidated basis; (x) the Debtors’ insurance providers; (xi) all known parties that have expressed interest to the Debtors, within six (6) months prior to the Petition Date and/or since the Petition Date, in purchasing some or all of the Debtors’ assets; and (xii) all parties that have requested or that are required to receive special notice pursuant to Bankruptcy Rule 2002.⁴ In addition to the foregoing, electronic notification of this Motion, the Bidding Procedures Order and the Notice of

⁴ The Notice of Auction and Sale Hearing will direct parties to contact the Debtors’ counsel for more information and will provide that any party in interest that wishes to obtain a copy of any related document, subject to any necessary confidentiality agreement, may make a request in writing as specified in the Notice of Auction and Sale Hearing.

Auction and Sale Hearing also will be posted on the Court's electronic case filing (ECF) website, <http://ecf.deb.uscourts.gov>.

11. On or before three (3) business days after entry of this Bidding Procedures Order, the Debtors will (i) serve the Notice of Auction and Sale Hearing on all creditors appearing on the Debtors' creditor matrix (to the extent not already served pursuant to paragraph 10); and (ii) subject to applicable submission deadlines and cost considerations (and consistent with the DIP Order and the Approved Budget).

12. On or before three (3) business days after entry of this Bidding Procedures Order, the Debtors will serve, by first class mail or hand delivery on all non-Debtor parties to the Executory Contracts and Unexpired Leases, a notice of potential assumption, assignment and/or transfer of the Executory Contracts and Unexpired Leases in substantially the form annexed hereto as **Exhibit 3** (the "**Notice of Assumption and Assignment**"). The Notice of Assumption and Assignment shall identify the calculation of the cure amounts that the Debtors believe must be paid to cure all defaults under the Assigned Contracts (the "**Cure Amounts**"). If the Debtors, the Successful Bidder, or the Back Up Bidder, as the case may be, identify additional executory contracts or unexpired leases that might be assumed by the Debtors and assigned to the Successful Bidder or that were not set forth in the original Notice of Assumption and Assignment, the Debtors will promptly send a supplemental notice (a "**Supplemental Notice of Assumption and Assignment**") to the applicable counterparties to such additional executory contracts and unexpired leases.⁵

⁵ The inclusion of any contract or unexpired lease of nonresidential real property on any Notice of Assumption and Assignment or Supplemental Notice of Assumption and Assignment shall not be an admission by the Debtors or their estates that any such contract or unexpired lease so included is an executory contract. Nor shall the inclusion of any contract or unexpired lease on any Notice of Assumption and Assignment or Supplemental Notice of Assumption and Assignment constitute an admission of liability by the Debtors or their estates or effectuate the assumption or assignment of such contract or lease, absent entry of an order of the Court approving the assumption

13. Unless the non-Debtor party to an Executory Contract or Unexpired Lease files an objection (the “**Cure Amount/Assignment Objection**”) to its scheduled Cure Amount and/or (ii) the proposed assumption, assignment and/or transfer of such Executory Contract or Unexpired Lease by **March 17, 2017 at 4:00 p.m. (prevailing Eastern Time)** (the “**Cure/Assignment Objection Deadline**”) and serves a copy of the Cure Amount/Assignment Objection so as to be received no later than the Cure/Assignment Objection Deadline on (i) counsel for the Debtors, Gibbons P.C., 300 Delaware Avenue, Ste. 1015, Wilmington, Delaware 19801 (Attn: Howard A. Cohen, Esq. (hcohen@gibbonslaw.com)); and (ii) counsel for the DIP Agent, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, (Attn: Mitchell A. Seider, Esq. (mitchell.seider@lw.com) and Annemarie V. Reilly, Esq. (annemarie.reilly@lw.com)) and Richards Layton & Finger, One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins) (collectively, the “**Objection Notice Parties**”), then such non-Debtor party shall (i) be forever barred from objecting to the Cure Amount and from asserting any additional cure or other amounts with respect to such Executory Contract or Unexpired Lease and the Debtors shall be entitled to rely solely upon the Cure Amount and (ii) subject to the procedures for objecting to adequate assurance of future performance as set forth below, be deemed to have consented to the assumption, assignment and/or transfer of such Executory Contract or Unexpired Lease to the Successful Bidder or Back-Up Bidder and shall be forever barred and estopped from asserting or claiming against the Debtors, the Successful Bidder or Back-Up Bidder or any other assignee of the relevant Executory Contract or Unexpired Lease that any additional amounts are due or defaults exist, or

and/or assignment of such contract or lease of nonresidential real property in conjunction or as part of the Approval Order.

additional conditions to assumption, assignment and/or transfer must be satisfied, under such Executory Contract or Unexpired Lease.

14. Cure Objections shall set forth the cure amount being claimed by the objecting party (the “**Claimed Cure Amount**”), the specific types and dates of the alleged defaults, pecuniary losses and conditions to assignment, and the support therefor and for all other objections to assumption and assignment. Upon receipt of a Cure Amount/Assignment Objection, the Debtors, with the approval of the Successful Bidder, may resolve any Cure Objection by mutual agreement with the objecting counterparty to any Executory Contract or Unexpired Lease without further order of the Court. In the event that the Debtors, the Successful Bidder or the Back-Up Bidder (as applicable), and any objecting party are unable to consensually resolve any Cure Objection no later than three (3) business days prior to the Sale Hearing, the Debtors shall request that the Court resolve such Cure Objection at the Sale Hearing.

15. The Successful Bidder or the Back-Up Bidder, as the case may be, may determine to add or exclude any Executory Contract or Unexpired Lease from the list of Executory Contracts and Unexpired Leases to be assumed and assigned under the Purchase Agreement or Stalking Horse Agreement through the Closing Date; provided, however, the non-Debtor party or parties to any such excluded contract or lease will be notified of such exclusion by written notice mailed within two (2) business days of such determination.

16. Any objection by non-Debtor parties to any Executory Contract or Unexpired Lease concerning whether the Stalking Horse Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code (the “**Stalking Horse Adequate Assurance Objection**”) must be filed and served by the Sale Objection Deadline (defined below) and comply with the requirements contained in this Order.

17. Within one (1) business day after the conclusion of the Auction, the Debtors will serve a notice identifying the Successful Bidder and Back-Up Bidder (the “**Notice**”) to the non-Debtor parties to the Assigned Contracts that have been identified in such Successful Bid and Back-Up Bid. If the Stalking Horse Bidder is not the Successful Bidder, then any objection by non-Debtor parties to the Assigned Contracts solely concerning the issue of whether the Successful Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code (the “**Adequate Assurance Objection**”) must be filed prior to the commencement of the Sale Hearing and must otherwise comply with the requirements set forth herein.

18. Objections to the sale of the Debtors’ assets, adequate assurance of future performance by the Stalking Horse Bidder or the relief requested in the Motion (other than with respect to the conduct of the Auction or adequate assurance of future performance by the Successful Bidder if the Successful Bidder is not the Stalking Horse Bidder) must: (i) be in writing; (ii) comply with the Bankruptcy Rules and the Local Rules; (iii) be filed with the clerk of the Bankruptcy Court for the District of Delaware, 824 N. Market St., Wilmington, DE 19801, on or before **March 17, 2017 at 4:00 p.m. (prevailing Eastern Time)** (the “**Sale Objection Deadline**”), or such later date and time as the Debtors may agree; and (iv) be served so as to be received no later than 4:00 p.m. (prevailing Eastern Time) on the same day upon the Objection Notice Parties. Objections, if any, to the conduct of the Auction, or adequate assurance of future performance by the Successful Bidder if the Successful Bidder is not the Stalking Horse Bidder, must be filed and served prior to the commencement of the Sale Hearing and must otherwise comply with the requirements above. All objections must state with specificity the nature of such objection and will be heard by the Court at the Sale Hearing.

19. The Notice of Auction and Sale Hearing and the Notice of Assumption, and Assignment to be issued in connection with the proposed sales of the Debtors' assets, substantially in the forms annexed hereto as **Exhibit 2** and **Exhibit 3**, respectively, are approved.

20. The Sale Hearing may be adjourned, from time to time, without further notice to creditors or other parties in interest by announcement of said adjournment in open Court.

21. Except as otherwise provided in this Bidding Procedures Order or the Bidding Procedures, the Debtors further reserve the right as they may reasonably determine to be in the best interests of their estates, subject to conformity with the Bidding Procedures, to: (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid or combination of Qualified Bids is the highest or otherwise best proposal and which is the next highest or otherwise best proposal; (iv) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (v) remove all or a portion of the Debtors' assets from the sale; (vi) waive terms and conditions set forth herein with respect to all Potential Bidders; (vii) impose additional terms and conditions with respect to all Potential Bidders; (viii) extend the deadlines set forth herein; (ix) upon prior notice to the Stalking Horse Bidder to the extent practicable under the circumstances, adjourn or cancel the Auction and/or Sale Hearing in open court without further notice; (x) modify the Bidding Procedures as the Debtors may determine to be in the best interest of their estates; or (xi) withdraw the Motion at any time prior to the Sale Hearing with or without prejudice.

22. Notwithstanding anything to the contrary in this Order or the Motion, any payment, obligations, or other relief authorized by this Order shall be subject to the terms, conditions, and limitations of the order of this Court approving any debtor in possession financing and cash collateral use, including any budget in connection therewith.

23. The stays provided for in Bankruptcy Rules 6004(h) and 6006(d) are waived and Bidding Procedures Order shall be effective immediately upon its entry.

24. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.

Wilmington, Delaware

Date: _____, 2017

The Honorable
United States Bankruptcy Judge

Exhibit 1 (to Bidding Procedures Order)

[Bidding Procedures]

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

In re:)	Case No. 17- _____ ()
Chieftain Sand and Proppant, LLC, <i>et al.</i> ,)	Chapter 11
Debtors. ¹)	(Jointly Administered)
)	

BIDDING PROCEDURES

By motion dated _____, 2017 (the “**Motion**”) filed by the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned cases (the “**Cases**”) [Docket No. ____],² the Debtors sought approval of, among other things, the procedures through which they will determine the highest or otherwise best price for the sale of substantially all the assets owned by the Debtors (collectively, the “**Assets**”) to one or more successful bidders.

On _____, 2017, the United States Bankruptcy Court for the District of Delaware (the “**Court**”) entered an order (the “**Bidding Procedures Order**”) which, among other things, (i) authorized the Debtors to determine and select the highest or otherwise best bid for the Assets (the “**Successful Bid**”) through the competitive bidding and auction process set forth below (the “**Bidding Procedures**”); and (ii) scheduled _____, 2017 at __: __ **m. (Prevailing Eastern Time)**, as the date and time that a hearing before the Court to consider the Debtors’ request for approval of the Successful Bid will be held (the “**Sale Hearing**”). As set forth below and in the Motion, the Debtors reserve the right to modify the Bidding Procedures in accordance with the Bidding Procedures Order.

The sale will be subject to competitive bidding as set forth herein, and approval of the Court pursuant to sections 105, 363 and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”).

Assets to be Sold/Free and Clear

The Assets generally constitute substantially all of the assets owned by the Debtors. The Debtors are offering bidders the opportunity to bid on substantially all of the Assets (the “**Sale**”). All of the rights, title and interest of the Debtors in and to the Assets to be acquired will be sold free and clear of all pledges, liens, security interest, encumbrances, claims, charges, options, and interests thereon and there against (collectively, “**Claims and Interests**”) to the extent permitted by sections 363 and 365 of the Bankruptcy Code, and other applicable

¹ The Debtors in these chapter 11 cases, and the last four digits of their respective federal tax identification numbers, are Chieftain Sand and Proppant, LLC (1729) and Chieftain Sand and Proppant Barron, LLC (0418). The Debtors’ service address is: 331 27th Street, New Auburn, WI 54757.

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

law, such Claims and Interests to attach to the net proceeds of the Sale of such Assets, with the same validity and priority as existed immediately prior to the Sale, except, with respect to the Stalking Horse Bidder (as defined below), to the extent otherwise set forth in the Stalking Horse Purchase Agreement or, with respect to a Successful Bidder, to the extent otherwise set forth in the relevant purchase agreement.

Stalking Horse Bidder

Pursuant to the Bidding Procedures Order, the Court approved, among other things, the Debtors' selection of Energy Capital Partners Mezzanine Opportunities Fund A, LP as the proposed stalking horse bidder for the Assets (the "**Stalking Horse Bidder**"), pursuant to that certain Asset Purchase Agreement by and among the Debtors and the Stalking Horse Bidder, dated as of January 9, 2017, and attached as an exhibit to the Proposed Sale Order (the "**Stalking Horse Agreement**").

Participation Requirements

In order to participate in the bidding process or otherwise be considered for any purpose hereunder, a person interested in consummating a Sale for substantially all of the Assets must first deliver an executed confidentiality agreement in form and substance satisfactory to the Debtors and their counsel, upon which time such person shall become a "**Potential Bidder**." A copy of the Debtors' proposed form of confidentiality agreement may be obtained by contacting Debtors' counsel at the contact information provided in the "Bid Deadline" section below.³

Bid Requirements

In order to participate in the bidding process and be deemed a "**Qualified Bidder**," a Potential Bidder must submit a "**Qualified Bid**" by _____, 2017, at 5:00 p.m. (prevailing Eastern Time) (the "**Bid Deadline**"). The Debtors shall make a determination regarding whether a bid is a Qualified Bid and shall notify bidders whether their bids have been determined to be Qualified Bids by no later than 5:00 p.m. (prevailing Eastern Time) on _____, 2017. For the avoidance of doubt, the Stalking Horse Bidder on account of the Stalking Horse Agreement is a Qualified Bidder and has submitted a Qualified Bid, which Qualified Bid consists of (a) the Credit Bid Amount (as defined in the Stalking Horse Agreement), plus (b) an amount in cash sufficient to pay the DIP Repayment Amount (as defined in the Stalking Horse Agreement), plus (c) an amount in cash equal to the Undisputed Cure Costs (as defined in the Stalking Horse Agreement), plus (d) an amount in cash necessary to fund the wind-down of the Sellers' estates in accordance with the Approved Wind-Down Budget (as defined in the *Interim Order (I) Authorizing Debtors to Obtain Post-Petition Financing, (II) Authorizing the Use of Cash Collateral, (III) Granting Liens and Superpriority Claims, (IV) Scheduling and Final Hearing, and (V) Granting Related Relief* [Docket No. ___] and the proposed Final Order with respect thereto (collectively, the "**Financing Orders**"). Further, subject to the Stalking Horse Agreement, the Stalking Horse Bidder shall have the unqualified

³ To the extent any party executed a confidentiality agreement prior to the entry of an order approving these Bidding Procedures, such party does not need to execute another confidentiality agreement in order to comply with the Bidding Procedures or become a Qualified Bidder.

right to increase the Credit Bid Amount prior to or during the Auction, provided that in no event shall the Credit Bid Amount exceed the Credit Bid Cap (as defined in the Stalking Horse Agreement). The Debtors reserve their right to contact bidders before or after the Bid Deadline to discuss or clarify the terms of their bid and to indicate any terms which may need to be modified in order to conform the bid to a Qualified Bid or otherwise evaluate the bid. If no timely, conforming Qualified Bids are submitted by the Bid Deadline, the Debtors shall not hold the Auction but expressly reserve the right to extend the Bid Deadline. To constitute a Qualified Bid, a bid must, among other things:

- (i) provide to the Debtors and their counsel the most current audited and latest unaudited financial statements (collectively, the “**Financials**”) of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of a transaction with the Debtors, (x) Financials of the equity holder(s) of the Potential Bidder or such other form of financial disclosure as is acceptable to the Debtors that demonstrates the Potential Bidder’s financial ability to consummate a Sale transaction and (y) a written commitment acceptable to the Debtors of the equity holder(s) of the Potential Bidder to be responsible for the Potential Bidder’s obligations in connection with a Sale transaction (including being bound by the terms and conditions of the Bidding Procedures); provided that if a Potential Bidder is unable to provide Financials, the Debtors may accept such other information sufficient to demonstrate to the Debtors’ reasonable satisfaction that such Potential Bidder has the financial wherewithal to consummate a Sale transaction. Potential Bidders shall not be allowed to review or obtain the Financials of other Potential Bidders;
- (ii) include a cover letter identifying whether the Potential Bidder is interested in purchasing substantially all of the Assets;
- (iii) state that the Potential Bidder offers to consummate the Sale pursuant to a proposed form of purchase agreement (the “**Purchase Agreement**”) and enclose a clean signed copy of the proposed Purchase Agreement;
- (iv) include a blackline comparison of the Purchase Agreement to the Stalking Horse Agreement, reflecting all of such Potential Bidder’s proposed revisions, modifications, amendments, or other changes to the Stalking Horse Agreement;
- (v) if any bid is conditioned on the assumption and assignment of executory contracts and/or unexpired leases, then such Potential Bidder shall be required to provide evidence of its ability to provide adequate assurance of future performance of such contracts or leases along with the bid;
- (vi) either (i) be an all-cash bid; or (ii) be accompanied by committed financing;

- (vii) provide that the total consideration offered by such bidder under its Purchase Agreement exceeds (a) the consideration offered by the Stalking Horse Bidder under the Stalking Horse Agreement, including (1) the Credit Bid Amount, (2) the DIP Repayment Amount, (3) the Undisputed Cure Costs, (4) the amount of cash paid to fund the wind-down of the Sellers' estates, and (5) the value of the Assumed Liabilities, plus (b) \$250,000 (the "**Initial Overbid Requirement**");
- (viii) contain a list of the Debtors' executory contracts and unexpired leases with respect to which the Potential Bidder seeks assignment from the Debtors;
- (ix) confirm that the offer shall remain open and irrevocable as provided below;
- (x) be accompanied with a certified or bank check or wire transfer in an amount equal to ten percent (10%) of the proposed purchase price set forth in the bid as a minimum good faith deposit (the "**Minimum Deposit**"), which Minimum Deposit shall be (a) deposited into a segregated account as set forth below; and (b) used to fund a portion of the purchase price provided for in the bid;
- (xi) indicate whether the Potential Bidder intends to operate the Assets as a going concern;
- (xii) not be conditioned on obtaining financing or the outcome of any due diligence by the Potential Bidder;
- (xiii) not request or entitle such Potential Bidder to any break-up fee, expense reimbursement, or similar type of payment; and
- (xiv) fully disclose the identity of each entity that will be bidding for the Assets or otherwise participating in connection with such bid, and the complete terms of any such participation.

If a bid submitted on or prior to the Bid Deadline fails to meet all the requirements of a Qualified Bid, the Debtors are entitled to work with the bidder in an effort to cure any defects in the bid and to cause such bid to become a Qualified Bid prior to the commencement of the Auction. In addition, the Debtors may waive one or more of the requirements specified in the "Bid Requirements" section above and deem such bid to be a Qualified Bid prior to the commencement of or during the Auction; provided, however, that the Debtors may not waive the Initial Overbid Requirement. The Debtors may aggregate separate bids from unaffiliated Potential Bidders to create one Qualified Bid, provided, however, that all such Potential Bidders shall remain subject to the provisions of section 363(n) of the Bankruptcy Code regarding collusive bidding.

A bid received from a Potential Bidder that meets the requirements set forth above that is timely received will be considered a Qualified Bid if the Debtors believe that such bid would be consummated if selected as a Successful Bid (defined below).

After the Bid Deadline (defined below), the Debtors, employing their business judgment, shall determine which Qualified Bid or combination of Qualified Bids represents the Starting Qualified Bid (defined below). The Debtors shall provide notice to bidders of the Starting Qualified Bid (defined below) by a date no later than one day prior to the Auction.

Bid Deadline

The Bid Deadline for submitting bids on the Assets by a Potential Bidder shall be _____, 2017, at 5:00 p.m. (prevailing Eastern Time), unless such date is extended by the Debtors.

A Potential Bidder that desires to make a bid must deliver written and electronic copies of their bid so that they are actually received prior to the Bid Deadline by (a) proposed counsel for the Debtors, Gibbons P.C., 300 Delaware Avenue, Ste. 1015, Wilmington, Delaware 19801 (Attn: Howard A. Cohen, Esq. (hcohen@gibbonslaw.com)) and (b) proposed investment banker for the Debtors, Tudor, Pickering, Holt & Co., 1111 Bagby, Ste. 4900, Houston, Texas 77002 (Attn: Max Barrett (MBarrett@tphco.com)).

Obtaining Due Diligence Access

The Debtors shall afford each Potential Bidder reasonable due diligence information. Site access shall be provided upon reasonable request to the Debtors at the discretion of the Debtors within their reasonable business judgment. Potential Bidders cannot question the Debtors' employees without the Debtors' consent. The due diligence period will end on the Bid Deadline (and for the avoidance of doubt, as provided above, a Qualified Bid may not be conditioned on obtaining financing or the outcome of any due diligence by the Potential Bidder).

The Debtors shall not be obligated to furnish any information relating to the Debtors, the Assets and/or the Sale to any person except to a Potential Bidder. The Debtors shall give each Potential Bidder reasonable access to all written due diligence information provided to another Potential Bidder.

The Debtors shall coordinate all reasonable requests for additional information and due diligence access from Potential Bidders. No conditions relating to the completion of due diligence shall be permitted to exist after the Bid Deadline.

The Debtors have designated Tudor, Pickering, Holt & Co. ("**TPH**") to coordinate their responses to all reasonable requests for additional information and due diligence from Potential Bidders. Contact information for TPH is as follows:

Tudor, Pickering, Holt & Co.
Attn: Max Barrett
1111 Bagby, Suite 4900

Houston, Texas 770022

Due Diligence from Potential Bidders

Each Potential Bidder shall comply with all reasonable requests for additional information by the Debtors or their advisors regarding such Potential Bidder's financial wherewithal to consummate and perform obligations in connection with the Sale. Failure by the Potential Bidder to comply with requests for additional information may be a basis for the Debtors to determine that a Potential Bidder is not a Qualified Bidder and that a bid made by a Potential Bidder or a Qualified Bidder is not a Qualified Bid.

“As Is, Where Is”

The Sale of the Assets shall be on an “as is, where is” basis and without representations or warranties of any kind, nature or description by the Debtors, their agents or estates, except to the extent set forth in the purchase agreement between the Debtors and the Successful Bidder.

Each bidder shall be deemed to acknowledge and represent that it has had an opportunity to inspect and examine the Assets prior to making its offer, that it has relied solely upon its own independent review, investigation and/or inspection of any documents in making its bid, and that it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Assets or the completeness of any information provided in connection with the bidding process, in each case except as expressly stated in the marked Purchase Agreement.

The Auction

If more than one Qualified Bid by a Qualified Bidder is received by the Bid Deadline (or if a non-qualified bid received by the Bid Deadline is qualified prior to the commencement of the Auction), other than the bid of the Stalking Horse Bidder, an Auction with respect to a sale of the Assets shall take place on _____, 2017, at __: __ 0 __.m. (**prevailing Eastern Time**), at the offices of Gibbons P.C., One Gateway Center, Newark, N.J. 07102, or at such other place and time as the Debtors shall notify all Qualified Bidders and other invitees. If, however, no such Qualified Bids other than the bid of the Stalking Horse Bidder are received by the Bid Deadline, or if a non-qualified bid received by the Bid Deadline is not qualified prior to the commencement of the Auction, then the Auction will not be held, the Stalking Horse Agreement shall be designated as the Successful Bid, and the Debtors shall seek approval of the Sale of the Assets to the Stalking Horse Bidder in accordance with the Stalking Horse Agreement at the Sale Hearing.

Auction Rules:

- (i) Only Qualified Bidders who have submitted a Qualified Bid for substantially all of the Assets and their authorized representatives will be eligible to participate at the Auction and to increase their bids. Representatives of the Committee, if any, may attend the Auction. After

the Bid Deadline, the Debtors shall determine which Qualified Bid or combination of Qualified Bids represents the then-highest or otherwise best bid for the Assets (the “**Starting Qualified Bid**”). The Auction shall commence with the Starting Qualified Bid and then proceed in minimum overbid increments of \$250,000 (the “**Overbid Increment**”). The Debtors shall not consider any subsequent bid in the Auction unless any bid after the Starting Qualified Bid exceeds the previous highest bid by at least the Overbid Increment. During the course of the Auction, the Debtors shall inform each participant which Qualified Bid(s) reflects, in the Debtors’ view, after consultation with the Committee, if any, the highest or otherwise best offer or combination of offers.

- (ii) The Auction may be adjourned as the Debtors deem appropriate. Reasonable notice of such adjournment and the time and place for the resumption of the Auction shall be given to all Qualified Bidders that have submitted a Qualified Bid and counsel for the Committee, if any.
- (iii) Each Qualified Bidder participating at the Auction will be required to confirm that it has not engaged in any collusion with respect to the bidding or Sale; provided, however, in order to obtain the highest and/or otherwise best bid, the Debtors may engage in discussions with one or more Qualified Bidders if they determine that the combination of all or a portion of bids received from such Qualified Bidders would yield the highest and/or otherwise best offer at the Auction.
- (iv) Bidding at the Auction shall be transcribed or videotaped.
- (v) Within two (2) Business Days after the conclusion of the Auction, the Successful Bidder (as defined below) 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 or their agents shall publish notice of the Auction on the Debtors’ restructuring website maintained by its claims and noticing agent.

Other Terms

All Qualified Bids, the Auction, and the Bidding Procedures are subject to modification and/or additional terms and conditions as are announced by the Debtors solely to the extent not inconsistent with the Bidding Procedures Order or these Bidding Procedures. At the conclusion of the Auction, the Debtors shall announce the bid or combination of bids made pursuant to the Bidding Procedures Order that represents, in the Debtors’ discretion, the Successful Bid and close the Auction. In determining which bid is the Successful Bid, the Debtors shall consider, without limitation, the amount of the purchase price, the form of consideration being offered, 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 Agreement

requested by each bidder, and the net benefit to the Debtors' estates. Prior to the entry of the Sale Order (defined below), the Debtors shall announce the identity of the Qualified Bidder or combination of Qualified Bidders who submitted the Successful Bid at the Auction (the "**Successful Bidder**"). If an Auction is held, the Debtors shall be deemed to have accepted a Qualified Bid only when (i) such bid is declared the Successful Bid at the Auction, (ii) definitive documentation has been executed in respect thereof and (iii) the Court has approved the Sale to the Successful Bidder. Such acceptance by the Debtors is conditioned upon approval by the Court of the Successful Bid and the entry of an order approving such Successful Bid.

Following completion of the Auction, neither the Debtors nor their representatives shall initiate contact with, solicit or encourage submission or any inquiries, proposals or offers by, any person in connection with any sale or other disposition of the Assets.

Irrevocability of Certain Bids

The Successful Bid and the bid of the Qualified Bidder or combination of Qualified Bidders (the "**Back-Up Bidder**") that submits the next highest or otherwise best bid or combination of bids (the "**Back-Up Bid**") shall be irrevocable until the earlier of: (i) sixty (60) days after entry of the Sale Order approving the Successful Bid; and, (ii) closing of the Sale to the Successful Bidder or the Back-Up Bidder. Notwithstanding the foregoing, the Stalking Horse Bidder has the right in its sole and absolute discretion to withdraw as Back-Up Bidder at any time. Following the entry of the Sale Order, if the Successful Bidder fails to consummate the Sale for any reason, the Back-Up Bid will be deemed the new Successful Bid, and the Debtors will be authorized, but not required, to consummate the Sale with the Back-Up Bidder without further order of the Court. In such case, the defaulting Successful Bidder's Minimum Deposit shall be forfeited to the Debtors and, solely to the extent provided for in the applicable Purchase Agreement or Stalking Horse Agreement, the Debtors shall have the right to seek any and all other remedies and damages from the defaulting Successful Bidder.

The Debtors will present the results of the Auction to the Bankruptcy Court at the Sale Hearing (as defined below) and the Debtors will request certain findings from the Bankruptcy Court regarding the Auction, including, among other things, that (i) the Auction was conducted and the Successful Bidder was selected in accordance with these Bidding Procedures, (ii) the Auction was fair in substance and procedure and (iii) consummation of the Sale contemplated by the Successful Bid will provide the highest or otherwise best value for the Assets and is in the best interests of the Debtors and their creditors.

Sale Hearing

A hearing to consider approval of the Sale of the Assets to the Successful Bidder will take place on _____, 2017, at __:__0 __.m. (prevailing Eastern Time), before the Honorable _____ in the United States Bankruptcy Court District of Delaware, 824 N. Market St., Wilmington, DE 19801. If no other Qualified Bid is received by the Debtors and the Stalking Horse Bidder's original Stalking Horse Agreement is the Successful Bid, then the Debtors will seek entry of an order at the Sale Hearing authorizing and approving the Sale (the "**Sale Order**"), including the sale of the Assets to the Stalking Horse Bidder, pursuant to the terms and conditions of the Stalking Horse Agreement. If a different bid is the Successful Bid,

then the Debtors anticipate that they will seek the entry of an order, modified as necessary to reflect the terms of the Successful Bid, authorizing and approving the sale of the Assets to the Successful Bidder.

Return of Deposit

Minimum Deposits shall be held by the Debtors in a segregated account, which account shall be pledged to the DIP Agent for the benefit of the DIP Lenders and which account shall at all times be subject to the perfected lien created by the Financing Orders and in addition a deposit account control agreement in form and substance satisfactory to the DIP Agent. Except as otherwise provided in this paragraph with respect to any Successful Bid and any Back-Up Bid, the Minimum Deposits of all Qualified Bidders that submitted such a deposit under the Bidding Procedures shall be returned upon or within five (5) business days after the conclusion of the Sale Hearing. The Minimum Deposit of the Successful Bidder shall be held until the closing of the Sale of the Assets, as applicable, and applied in accordance with the Successful Bid. The Minimum Deposit of any Back-Up Bidder shall be returned upon or within the earlier of (i) sixty (60) days after entry of the Sale Order (the “**Outside Back-Up Date**”) or (ii) the closing of the Sale of the Assets to the Successful Bidder.

Failure to Close

If the Successful Bidder fails to consummate the transaction in accordance with the terms of the applicable agreement executed by the Successful Bidder by the closing date contemplated in the Purchase Agreement agreed to by the parties for any reason, the Debtors shall: (i) solely to the extent provided for in the applicable Purchase Agreement or Stalking Horse Agreement, retain the Successful Bidder’s Minimum Deposit; (ii) solely to the extent provided for in the applicable Purchase Agreement or Stalking Horse Agreement, maintain the right to pursue all available remedies, whether legal or equitable; and (iii) be free to consummate the proposed transaction with the Back-Up Bidder at the highest price bid by the Back-Up Bidder at the Auction, without the need for an additional hearing or Order of the Court. Notwithstanding the foregoing and subject to the Bidding Procedures Order, nothing herein shall prejudice the rights of the DIP Agent to exercise whatever rights and remedies it may have pursuant to the Financing Orders.

Reservation of Rights

Except as otherwise provided in the Bidding Procedures Order or these Bidding Procedures, the Debtors reserve the right as they may reasonably determine to be in the best interests of their estates to: (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid or combination of Qualified Bids is the highest or otherwise best proposal and which is the next highest or otherwise best proposal; (iv) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (v) remove the Assets from the Sale; (vi) waive terms and conditions set forth herein with respect to all Potential Bidders; (vii) impose additional terms and conditions with respect to all Potential Bidders; (viii) extend the deadlines set forth herein; (ix) on prior notice to the Stalking Horse Bidder to the extent

practicable under the circumstances, adjourn or cancel the Auction and/or Sale Hearing in open court without further notice; (x) modify the Bidding Procedures, as the Debtors may determine to be in the best interests of their estates; or (xi) withdraw the Motion at any time prior to the Sale Hearing with or without prejudice.

Expenses

Except to the extent provided for in the Stalking Horse Agreement and the Bidding Procedures Order, any Potential Bidders presenting bids shall bear their own expenses in connection with the proposed Sale, whether or not such Sale is ultimately approved.

DIP Lender's Consent/Consultation Rights

To the extent the DIP Agent informs the Debtors that it is no longer bidding, the Debtors shall consult with the DIP Agent during subsequent rounds of bidding. Further, the Debtors shall establish precautions necessary to safeguard against the DIP Agent receiving information that other Potential Bidders and/or Qualified Bidders are not entitled to receive for so long as the DIP Agent exercises its right to bid.

Exhibit 2 (to Bidding Procedures Order)

[Notice of Auction and Sale Hearing]

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

In re:)	
)	Case No. 17-_____ ()
Chieftain Sand and Proppant, LLC, <i>et al.</i> ,)	Chapter 11
Debtors. ¹)	(Jointly Administered)
)	

NOTICE OF AUCTION AND SALE HEARING

PLEASE TAKE NOTICE THAT:

1. On _____, 2017, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed a motion (the “Motion”) ² [Docket No. ___] for entry of orders, among other things (i) approving bidding procedures (the “Bidding Procedures”) in connection with the sale (the “Sale”) of substantially all assets (collectively, the “Assets”) of the Debtors, (ii) scheduling an auction and a hearing (the “Sale Hearing”) to consider approval of the Debtors entering into a Sale, (iii) approving the form and manner of notice thereof and (iv) granting related relief. The Motion additionally requests entry of an order or orders (i) authorizing and approving a Sale free and clear of liens, claims, encumbrances and interests, (ii) approving the assumption and assignment of executory contracts and unexpired leases and (iii) granting related relief.

2. The Debtors are seeking to sell the Assets to the Successful Bidder or Back-Up Bidder. Approval of the sale of assets to either the Successful Bidder or Back-Up Bidder may result in, among other things, the assumption, assignment and/or transfer by the Debtors of certain executory contracts and unexpired leases. If you are a party to an executory contract or lease with one or more of the Debtors, you will receive a separate notice that contains relevant dates and other information that may impact you as a party to an executory contract or lease.

3. On _____, 2017, the United States Bankruptcy Court for the District of Delaware entered the Bidding Procedures Order. Pursuant to the Bidding Procedures Order, if the Debtors receive any Qualified Bids (as defined in the Bidding Procedures), other than the bid of the Stalking Horse Bidder, the auction for the Assets shall take place on _____, **2017, at 10:00 a.m. (prevailing Eastern Time)**, at the offices of **Gibbons P.C., One Gateway Center, Newark, New Jersey 07102**, or at such other place and time as the Debtors shall notify all Qualified Bidders and other invitees. Only parties that have submitted a Qualified Bid in accordance with the Bidding Procedures, attached to the Bidding Procedures Order as Schedule 1, by no later than _____, **2017, at 5:00 p.m. (prevailing Eastern Time)** (the “Bid”

¹ The Debtors in these chapter 11 cases, and the last four digits of their respective federal tax identification numbers, are Chieftain Sand and Proppant, LLC (1729) and Chieftain Sand and Proppant Barron, LLC (0418). The Debtors’ service address is: 331 27th Street, New Auburn, WI 54757.

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

Deadline”), may participate at the Auction. Any party that wishes to take part in this process and submit a bid for the Assets must submit its bid prior to the Bid Deadline and in accordance with the Bidding Procedures.

4. The Sale Hearing to consider approval of the Sale of the Assets to the Successful Bidder or Back-Up Bidder free and clear of all liens, claims and encumbrances will be held before the Honorable _____ in the United States Bankruptcy Court District of Delaware, 824 N. Market St., Wilmington, DE 19801 on _____, 2017, at __:__0 __.m. (**prevailing Eastern Time**), or at such other time thereafter as counsel may be heard. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing.

5. Objections, if any, to the Sale, or the relief requested in the Motion (other than with respect to cure amounts and adequate assurance which are subject to a separate notice) must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) be filed with the Clerk of the Bankruptcy Court, 824 N. Market St., Wilmington, DE 19801, on or before _____, **2017 at 4:00 p.m. (prevailing Eastern Time)**; and (d) be served so as to be received no later than 4:00 p.m. (prevailing Eastern Time) on the same day, upon (i) counsel for the Debtors, Gibbons P.C., 300 Delaware Avenue, Ste. 1015, Wilmington, Delaware 19801 (Attn: Howard A. Cohen, Esq. (hcohen@gibbonslaw.com)); and (ii) counsel for the DIP Agent, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, (Attn: Mitchell A. Seider, Esq. (mitchell.seider@lw.com) and Annemarie V. Reilly, Esq. (annemarie.reilly@lw.com)) and Richards Layton & Finger, One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins) (collectively, the “Bid and Objection Notice Parties”).

6. UNLESS AN OBJECTION IS TIMELY SERVED AND FILED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER HEARING AND NOTICE.

7. This Notice and the Sale Hearing is subject to the complete terms and conditions of the Motion, the Bidding Procedures Order, and the Bidding Procedures, which shall control in the event of any conflict and the Debtors encourage parties-in-interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of the Assets or in obtaining a copy of any related document, subject to any necessary confidentiality agreement, may make a written request to counsel for the Debtors, Gibbons P.C., 300 Delaware Avenue, Ste. 1015, Wilmington, Delaware 19801 (Attn: Howard A. Cohen, Esq. (hcohen@gibbonslaw.com)). In addition, copies of the Motion, the Bidding Procedures Order, and this Notice can be found: (a) on the Court’s website, <http://ecf.deb.uscourts.gov> and (b) with the Clerk of the Bankruptcy Court, 824 N. Market St., Wilmington, DE 19801.

Dated: January ____, 2017
Wilmington, Delaware

GIBBONS P.C.

Howard A. Cohen (DE 4082)
300 Delaware Avenue, Suite 1015
Wilmington DE 19801-1761
Telephone: (302) 518-6330
Facsimile: (302) 429-6294
Email: hcohen@gibbonslaw.com

**PROPOSED ATTORNEYS FOR
THE DEBTORS**

Exhibit 3 (to Bidding Procedures Order)

[Notice of Assumption and Assignment]

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

In re: Chieftain Sand and Proppant, LLC, <i>et al.</i> , Debtors. ¹))))))))	Case No. 17- _____ () Chapter 11 (Jointly Administered)
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NOTICE OF ASSUMPTION AND ASSIGNMENT

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On _____, 2017, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an order (the “Bidding Procedures Order”),² pursuant to sections 105(a), 363, 365, 503, 506, 507 and 552 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure and Local Rule 6004-1, in the chapter 11 cases of the above-captioned debtors and debtors in possession (the “Debtors”) approving, among other things, the fixing of cure amounts (the “Cure Amounts”) related to the Debtors’ assumption, assignment and/or transfer of certain executory contracts, unexpired leases, and other agreements (the “Executory Contracts and Unexpired Leases”) listed on **Exhibit A** annexed hereto in connection with the sale (the “Sale”) of certain of the Debtors’ assets (the “Assets”). The Debtors will assume, assign, and/or transfer the Executory Contracts and Unexpired Leases to the Successful Bidder or Back-Up Bidder for the Assets under the bidding procedures (the “Bidding Procedures”) approved by the Bankruptcy Court and attached to the Bidding Procedures Order as Exhibit 1. A hearing to consider approval of the Sale of the Assets to the Successful Bidder or Back-Up Bidder free and clear of all liens, claims and encumbrances will be held before the Honorable _____ in the United States Bankruptcy Court District of Delaware, 824 N. Market St., Wilmington, DE 19801 on _____, **2017, at ___:___0 __.m. (prevailing Eastern Time)**, or at such other time thereafter as counsel may be heard (the “Sale Hearing”).

2. The Debtors believe that any and all defaults (other than the filing of these Chapter 11 Cases) and actual pecuniary losses under the Executory Contracts and Unexpired Leases can be cured by the payment of the Cure Amounts listed on **Exhibit A** annexed hereto. If no amount is listed on the Notice of Assumption and Assignment with respect to an Executory Contract or Unexpired Lease, the Debtors believe that there is no Cure Amount applicable to such Executory Contract or Unexpired Lease.

¹ The Debtors in these chapter 11 cases, and the last four digits of their respective federal tax identification numbers, are Chieftain Sand and Proppant, LLC (1729) and Chieftain Sand and Proppant Barron, LLC (0418). The Debtors’ service address is: 331 27th Street, New Auburn, WI 54757.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Order.

3. Any objections to (i) the assumption, assignment and/or transfer of an Executory Contract or Unexpired Lease, or (ii) the amount asserted as the Cure Amount (each, a “Cure Amount/Assignment Objection”), must be in writing and set forth with specificity the nature of the objection and the cure amount that the objecting party believes should be paid in connection with the assumption of the Executory Contract or Unexpired Lease (the “Claimed Cure Amount”). In addition, if the Debtors or the Successful Bidder identify additional executory contracts or unexpired leases that might be assumed by the Debtors and assigned to the Successful Bidder or Back-Up Bidder not set forth in this original Notice of Assumption and Assignment, the Debtors shall promptly send a supplemental notice (a “Supplemental Notice of Assumption and Assignment”) to the applicable counterparties to such additional executory contracts and unexpired leases.

4. Any objection (the “Stalking Horse Adequate Assurance Objection”) concerning whether the Stalking Horse Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code must be in writing and set forth with specificity the nature of the objection.

5. To be considered a timely Cure Amount/Assignment Objection, the Cure Amount/Assignment Objection must be filed with the Bankruptcy Court and served upon (i) counsel for the Debtors, Gibbons P.C., 300 Delaware Avenue, Ste. 1015, Wilmington, Delaware 19801 (Attn: Howard A. Cohen, Esq. (hcohen@gibbonslaw.com)); and (ii) counsel for the DIP Agent, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, (Attn: Mitchell A. Seider, Esq. (mitchell.seider@lw.com) and Annemarie V. Reilly, Esq. (annemarie.reilly@lw.com)) and Richards Layton & Finger, One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins) (collectively, the “Bid and Objection Notice Parties”) by _____, **2017 at 4:00 p.m. (prevailing Eastern Time)** (the “Cure/Assignment Objection Deadline”).

6. To be considered a timely Stalking Horse Adequate Assurance Objection, the Stalking Horse Adequate Assurance Objection must be filed with the Bankruptcy Court and served upon the Bid and Objection Notice Parties by _____, **2017 at 4:00 p.m. (prevailing Eastern Time)** (the “Stalking Horse Adequate Assurance Objection Deadline”).

7. If a Cure Amount/Assignment Objection is timely filed, the Debtors may, with the approval of the Successful Bidder, resolve any Cure Amount/Assignment Objection by mutual agreement with the objecting counterparty to any Executory Contract or Unexpired Lease without further order of the Court. In the event that the Debtors, the Successful Bidder, and any objecting party are unable to consensually resolve any Cure Amount/Assignment Objection no later than three (3) business days prior to the Sale Hearing, the Debtors will request that the Court resolve such Cure Amount/Assignment Objection at the Sale Hearing.

8. Unless the Cure Amount/Assignment Objection is timely filed and served, the assumption, assignment and/or transfer of the applicable Executory Contracts and Unexpired Leases will proceed without further notice at the Sale Hearing.

9. Parties that fail to file and serve timely Cure Amount/Assignment Objections shall be deemed to have waived and released any and all rights to assert against the Debtors, the

Successful Bidder or Back-Up Bidder cure amounts different from the Cure Amounts listed on **Exhibit A** hereto and shall be forever barred and estopped from asserting or claiming against the Debtors, the Successful Bidder or Back-Up Bidder, or any assignee of any Executory Contract or Unexpired Lease that any additional amounts are due or defaults exist, or prohibitions or conditions to assignment exist or must be satisfied, under such Executory Contract or Unexpired Lease.

10. The Successful Bidder or the Back-Up Bidder, as the case may be, may determine to add or exclude any Executory Contract or Unexpired Lease from the list of Executory Contracts and Unexpired Leases to be assumed and assigned under the Purchase Agreement or Stalking Horse Agreement through the Closing Date; provided, however, the non-Debtor party or parties to any such excluded contract or lease will be notified of such exclusion by written notice mailed within two (2) business days of such determination.

11. Within one (1) business day after the conclusion of the Auction, the Debtors will serve a notice identifying the Successful Bidder and Back-Up Bidder (the "Notice") to the non-Debtor parties to the Executory Contracts and Unexpired Leases that have been identified in such Successful Bid and Back-Up Bid. If the Stalking Horse Bidder is not the Successful Bidder, then any objection by non-Debtor parties to the Assigned Contracts solely to the issue of whether the Successful Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code (the "Adequate Assurance Objection Deadline") must be filed prior to the commencement of the Sale Hearing and served upon the Bid and Objection Notice Parties.

12. If no Cure Amounts are due under an Executory Contract or Unexpired Lease, or if the non-Debtor Party agrees to the Cure Amounts listed on Exhibit A hereto, and the non-Debtor party to the Executory Contract or Unexpired Lease does not otherwise object to the Debtors' assumption, assignment and/or transfer of the Executory Contract or Unexpired Lease, no further action needs to be taken on the part of that non-Debtor party.

13. Copies of the Bidding Procedures Order and other relevant documents can be found: (a) on the Court's website, <http://ecf.deb.uscourts.gov> and (b) with the Clerk of the Bankruptcy Court, 824 N. Market St., Wilmington, DE 19801.

14. The Debtors' decision to sell, assign and/or transfer to the Successful Bidder or Back-Up Bidder the Executory Contracts and Unexpired Leases is subject to Court approval and the Sale Closing Date. Accordingly, absent such Sale Closing Date, the Executory Contracts and Unexpired Leases shall not be deemed to be sold, assigned and/or transferred, and shall in all respects be subject to further administration under the Bankruptcy Code. The inclusion of any document on the list of Executory Contracts and Unexpired Leases shall not constitute or be deemed to be a determination or admission that such document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code (all rights with respect thereto being expressly reserved). Nor shall the inclusion of any document constitute an admission of liability by the Debtors or their estates.

Dated: January __, 2017
Wilmington, Delaware

GIBBONS P.C.

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**PROPOSED ATTORNEYS FOR THE
DEBTORS**

Exhibit A (to Notice of Assumption and Assignment)

[Executory Contracts and Unexpired Leases]

[To be provided]