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8 *Proposed Attorneys for Debtors and*
9 *Debtors in Possession*

10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

13 In re:

14 STORCENTRIC, INC., *et al.*,

15 Debtors.¹

Case No. 22-50515 (MEH)

Chapter 11

(Jointly Administered)

16 **NOTICE OF FILING OF PROPOSED**
17 **ORDER RELATED TO THE AUCTION**
18 **AND SALE OF THE DEBTORS' ASSETS**

19 **PLEASE TAKE NOTICE** that, on June 30, 2022, the above-captioned debtors and debtors
20 in possession (collectively, the “Debtors”), filed the *Motion of Debtors for Entry of Orders (A)(I)*
21 *Approving Bidding Procedures, (II) Approving Stalking Horse Bid Protections, (III) Scheduling the*
22 *Bid Deadlines and the Auction, (IV) Scheduling a Hearing and Objection Deadline with Respect to*
23 *the Sale, (V) Approving the Form and Manner of Notice Thereof, (VI) Approving Contract*
24 *Assumption and Assignment Procedures, and (VII) Granting Related Relief; and (B)(I) Approving*
25 *the Sale of the Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (II)*
26 *Approving Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III)*
27 *Granting Related Relief; and (C) Granting Related Relief* [Docket No. 65].²

28 ¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are:
StorCentric, Inc. (6210); Nexsan Technologies Incorporated (5244); Nexsan Corporation (9778); Connected Data, Inc.
(5504); Drobo, Inc. (2545); Retrospect, Inc. (0638); VS Acquisition Company, LLC. The Debtors’ business address is
1289 Anvilwood Avenue, Sunnyvale, CA 94089.

² All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the
Bidding Procedures Order.

1 **PLEASE TAKE FURTHER NOTICE** that, on July 22, 2022, the United States
2 Bankruptcy Court for the Northern District of California (the “Court”) entered that certain order
3 approving, among other things, the implementation of the Bidding Procedures, in connection with
4 the one or more sales of all, substantially all, or any combination of the Debtors’ assets [Docket No.
5 141], a copy of which is annexed hereto as **Exhibit 1** (the “Bidding Procedures Order”). A copy of
the Bidding Procedures is annexed hereto as **Exhibit 2**. Pursuant to the Bidding Procedures Order,
a final hearing to approve the Auction and Sale is scheduled to take place on August 26, 2022 (the
“Sale Hearing”) at 11:00 a.m. (prevailing Pacific Time).

6 Dated: July 22, 2022

JONES WALKER LLP

7
8 By: /s/ John W. Mills

9 John W. Mills

Mark A. Mintz

10 *Proposed Attorneys for Debtors and Debtors in*
11 *Possession*
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EXHIBIT 1

Bidding Procedures Order



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The following constitutes the order of the Court.
Signed: July 22, 2022

M. Elaine Hammond

M. Elaine Hammond
U.S. Bankruptcy Judge

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*Proposed Attorneys for Debtors and
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

In re:

STORCENTRIC, INC., *et al.*,

Debtors.¹

Case No. 22-50515 (MEH)

(Jointly Administered)

Chapter 11

**ORDER (I) APPROVING BIDDING
PROCEDURES, (II) APPROVING
STALKING HORSE BID PROTECTIONS,
(III) APPROVING CONTRACT
ASSUMPTION AND ASSIGNMENT
PROCEDURES AND THE FORM AND
MANNER OF NOTICE THEREOF, (IV)
SCHEDULING THE AUCTION; (V)
SCHEDULING A HEARING AND
OBJECTION DEADLINES WITH
RESPECT TO THE SALE, (VI)**

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: StorCentric, Inc. (6210); Nexsan Technologies Incorporated (5244); Nexsan Corporation (9778); Connected Data, Inc. (5504); Drobo, Inc. (2545); Retrospect, Inc. (0638); VS Acquisition Company, LLC. The Debtors' business address is 1289 Anvilwood Avenue, Sunnyvale, CA 94089.

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**APPROVING THE FORM AND MANNER
OF NOTICE THEREOF, AND (VII)
GRANTING RELATED RELIEF**

Date: July 21, 2022

Time: 10:00 a.m. (Prevailing Pacific Time)

Place: United States Bankruptcy Court
280 South First Street
Courtroom 11

San Jose, CA 95113-3099 and
Telephonic/Video

Judge: Hon. M. Elaine Hammond

9 Upon the Motion² filed by the above-referenced debtors and debtors in possession
10 (collectively, the “Debtors”) for entry of an order (the “Bidding Procedures Order”) (i) authorizing
11 and approving the proposed bidding procedures (the “Bidding Procedures”) attached hereto as **Exhibit**
12 **1** by which the Debtors will conduct a sale (the “Sale Transaction”) of substantially all or any portion
13 of the Debtors’ assets (the “Assets”) pursuant to one or more sales under section 363 of the Bankruptcy
14 Code; (ii) approving the proposed Bid Protections (as defined in the Motion) to be provided to
15 potential stalking horse bidder(s) in connection with the Sale Transaction; (iii) approving procedures
16 (the “Assumption and Assignment Procedures”) for the assumption and assignment of certain
17 executory contracts and unexpired leases in connection with the Sale Transaction (collectively, the
18 “Assigned Contracts”), including notice of proposed cure amounts (the “Cure Notice”), attached
19 hereto as **Exhibit 3**; (iv) scheduling an auction in connection with the Sale Transaction (the
20 “Auction”); (v) scheduling hearing dates in connection with approval of the Sale Transaction (the
21 “Sale Hearing”) and the objection deadline for the Sale Hearing (collectively, the “Sale Objection
22 Deadline”); (vi) approving the form and manner of notice of the Auction and Sale, attached hereto as
23 **Exhibit 2** (the “Auction and Sale Notice”); and (vii) granting related relief; and (a) authorizing (i) the
24 sale of the Assets free and clear of all liens, claims, interests and encumbrances; (ii) authorizing the
25 assumption and assignment of the Assigned Contracts, and (b) granting related relief; and the Court
26 having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and
27

28 ² Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Motion.

1 the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the
2 Court may enter a final order consistent with Article III of the United States Constitution; and the
3 Court having found that venue of this proceeding and the Motion in this district is proper pursuant to
4 28 U.S.C. §§ 1408 and 1409; and the Court having reviewed the Motion; and the Court having found
5 that the relief requested in the Motion is in the best interests of the Debtors and their respective estates,
6 creditors, and other parties in interest; and the Court having found that proper and adequate notice of
7 the Motion and hearing thereon has been given and that no other or further notice is necessary; and
8 the Court having found that good and sufficient cause exists for the granting of the relief requested in
9 the Motion after having given due deliberation upon the Motion and all of the proceedings had before
10 the Court in connection with the Motion,

11 **IT IS HEREBY ORDERED THAT:**

- 12 1. The Motion is granted to the extent set forth herein.
13 2. Any objections to the Motion not resolved or otherwise withdrawn are overruled.

14 **A. Key Dates and Deadlines.**

- 15 3. The Sale Schedule is approved as set forth below and subject to modification in
16 accordance with the Bidding Procedures.³

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26 ³ The Official Committee of Unsecured Creditors of StorCentric, Inc., et al., appointed by Tracy Hope Davis, United
27 States Trustee for Region 17, on July 11, 2022 (the "Committee") reserves the right to seek to extend any of the
28 following deadlines for cause shown, including, *inter alia*, if bidders are unable to complete diligence on a timely basis
or if there is insufficient time between the Initial Bid Deadline and the Auction to enable to the Debtors and the
Consultation Parties (as defined in the Bidding Procedures) to identify Qualified Bids.

Date / Time	Event
August 16, 2022 5:00 p.m. (prevailing Pacific Time)	Deadline by which Bids (as well as the Deposit and all other documentation required under the Bidding Procedures) must be submitted in accordance with the Bidding Procedures.
August 19, 2022 5:00 p.m. (prevailing Pacific Time)	Deadline by which Debtors must make a Stalking Horse Bid Selection, if any. Deadline by which Force 10 delivers to Serene Investment Management, LLC (the “DIP Lender”), the Committee, the Prepetition Secured Parties, and the Other Secured Parties ⁴ a fully executed, binding agreement with the buyer (the “Agreement”).
August 23, 2022 11:00 a.m. (prevailing Pacific Time)	Deadline to hold Auction.
August 26, 2022 11:00 a.m. (prevailing Pacific Time)	Sale Hearing
September 12, 2022 5:00 p.m. (prevailing Pacific Time)	Deadline by which the Debtors shall have closed and consummated the applicable transactions.

B. The Bidding Procedures.

4. The Bidding Procedures, substantially in the form attached hereto as **Exhibit 1**, are hereby approved in their entirety, and the Bidding Procedures shall govern the submission, receipt, and analysis of all bids relating to the proposed sale of the Assets. Any party desiring to bid on one or more individual Assets or all or substantially all of the Assets shall comply with the Bidding Procedures and this Bidding Procedures Order. The Debtors are authorized to take any and all actions necessary to implement the Bidding Procedures.

5. Notwithstanding statements to the contrary in the Motion, for the purposes of this Order, the “Prepetition Secured Parties” are (i) UMB Bank, National Association, in its capacities as trustee and disbursing agent in connection with the Fixed Rate Senior Notes, Series 2020-3 (Collateralized Loan Insurance Program) (the “Series 2020-3 Notes”) issued by StorCentric, Inc.

⁴ The “Other Secured Parties” means Libertas Funding LLC and Web Bank.

(the “Trustee”), and (ii) Newlight Capital LLC, in its capacity as servicer in connection with the Series 2020-3 Notes (the “Servicer”).⁵

C. The Stalking Horse Bid Protections.

6. The proposed Bid Protections are approved, and the Debtors are authorized, in accordance with the Bidding Procedures, but not obligated, to (i) select a Stalking Horse Bidder for substantially all of the Debtors’ assets, and to enter into a Stalking Horse Agreement with such Stalking Horse Bidder, and (ii) in connection with any Stalking Horse Agreement with a Stalking Horse Bidder, (a) provide a breakup fee (the “Breakup Fee”), and (b) agree to reimburse reasonable and documented out-of-pocket fees and expenses (the “Expense Reimbursement,” and, along with the Breakup Fee, the “Bid Protections”), provided that the aggregate amount that may be paid to a Stalking Horse Bidder on account of the Bid Protections shall not exceed three percent (3%) of such Stalking Horse Bidder’s proposed Purchase, provided, further that the Debtors shall not provide a breakup fee to any Stalking Horse Bidder on account of the portion of such Bid that is a credit bid. Promptly upon the execution and acceptance of a Stalking Horse Bid, the Debtors shall file a notice with the Court regarding their selection of a Stalking Horse Bidder and attach a copy of the Stalking Horse Bid, as provided for in the Bidding Procedures.

D. Sale Order or Confirmation Order.

7. As set forth in the Motion and provided for in the Bidding Procedures, the Debtors shall seek entry of an order, and the proposed form of order (which may be included as part of a proposed order to confirm a chapter 11 plan) shall be filed on the docket of these chapter 11 cases no later than August 26, 2022: (i) authorizing (a) the sale of the Assets free and clear of all liens, claims, interests, and encumbrances, other than those expressly assumed (with such liens, claims, interests and encumbrances attaching to the proceeds of the sale to the same extent and with the same priority as such liens existed against the Assets immediately prior to the sale) and (b) the assumption and assignment of certain executory contracts and unexpired leases, and (ii) granting related relief.

⁵ Peleus Insurance Company (the “Insurer”), pursuant to a Lender Collateral Residual Value Insurance Policy, has rights, under certain circumstances, to step into the position of the Prepetition Secured Parties through subrogation or assignment, as applicable. To the extent the Insurer has exercised those rights, it shall be included within the definition of Prepetition Secured Parties for the purposes of this Order.

1 8. A hearing on that portion of the Motion seeking (i) authorization to (a) sell the Assets
2 free and clear of all liens, claims, interests, and encumbrances, other than those expressly assumed
3 (with such liens, claims, interests and encumbrances attaching to the proceeds of the sale to the same
4 extent and with the same priority as such liens existed against the Assets immediately prior to the
5 sale) and (b) assume and assign certain executory contracts and unexpired leases, and (ii) granting
6 related relief shall be held on August 26, 2022, at 11:00 a.m., prevailing Pacific Time.

7 **E. Notice Procedures.**

8 9. The Auction and Sale Notice substantially in the form attached hereto as **Exhibit 2**
9 is approved.

10 10. Notice of the Motion coupled with service of the Auction and Sale Notice (together
11 the “Notice”), constitutes good and adequate notice of the Auction and Sale and the proceedings
12 with respect thereto in compliance with, and satisfaction of, the applicable requirements of
13 Bankruptcy Rule 2002.

14 11. No other or further notice of the Auction and Sale shall be required.

15 **F. The Assumption and Assignment Procedures.**

16 12. The Assumption and Assignment Procedures are approved.

17 13. The notice to be provided under the Assumption and Assignment Procedures shall
18 constitute adequate and sufficient notice and no additional notice need be provided.

19 14. On or before August 1, 2022 (the “Assumption and Assignment Service Date”), the
20 Debtors shall file with the Court, and serve on the Contract Counterparties, the Cure Notice,
21 substantially in the form attached hereto as **Exhibit 3**, including the Assigned Contracts Schedule;
22 provided that the Debtors may supplement the Assigned Contract Schedule by filing and serving an
23 additional Cure Notice no later than seven days prior to the Sale Objection Deadline.

24 15. Service of a Cure Notice does not constitute any admission or agreement of the
25 Debtors that such Assigned Contract is an executory contract or unexpired lease or that such
26 Assigned Contract will be assumed at any point by the Debtors or assumed and assigned pursuant
27 to any Winning Bid.

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1 16. Assigned Contract Objections, if any, must comply with the Assigned Contract
2 Objection Requirements and be filed with the Court no later than August 8, 2022 at 5:00 p.m.
3 (prevailing Pacific Time).

4 17. Any Assigned Contract Objection that remains unresolved as of the Sale Hearing
5 shall be resolved at the Sale Hearing, or such later hearing as may be agreed between the Winning
6 Bidder and the Contract Counterparty, but such Assigned Contract shall be assumed and assigned
7 only upon satisfactory resolution of the Assigned Contract Objection, to be determined in the
8 Winning Bidder's discretion. If an Assigned Contract Objection is not satisfactorily resolved, the
9 Winning Bidder may determine that such Assigned Contract should be rejected and not assigned, in
10 which case the Winning Bidder will not be responsible for any Cure Costs or Adequate Protection
11 with respect to such contract.

12 18. If a Contract Counterparty does not file an Assigned Contract Objection: (a) the Cure
13 Costs and Adequate Assurance, if any, set forth in the Cure Notice shall be controlling,
14 notwithstanding anything to the contrary in any Assigned Contract or any other document; and (b)
15 the Contract Counterparty will be deemed to have consented to the assumption and assignment of
16 the Assigned Contract and the Cure Costs and Adequate Assurance, if any, and will be forever
17 barred from objecting to the assumption and assignment of such Assigned Contract and rights
18 thereunder.

19 19. The inclusion of an Assigned Contract on the Assigned Contract Schedule will not:
20 (a) obligate the Debtors to assume any Assigned Contract listed thereon or obligate the Winning
21 Bidder to take assignment of such Assigned Contract or (b) constitute any admission or agreement
22 of the Debtors that such Assigned Contract is an executory contract or unexpired lease. Only those
23 Assigned Contracts that are included on a schedule of assumed and assigned contracts attached to
24 the definitive sale agreement with the Winning Bidder (including amendments or modifications to
25 such schedules in accordance with such agreement) will be assumed and assigned to the Winning
26 Bidder.

27 **G. Miscellaneous.**

28 20. The Debtors are authorized to take all actions necessary to effectuate the relief

1 granted pursuant to this Bidding Procedures Order in accordance with the Motion.

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

5 22. In the event of any inconsistency between this Order and the Motion and/or the
6 Bidding Procedures, the Bidding Procedures shall govern in all respects.

7 23. Notwithstanding the relief granted herein and any actions taken hereunder, nothing
8 contained in the Motion or this Bidding Procedures Order shall constitute, nor is it intended to
9 constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a
10 waiver of the Debtors' rights to subsequently dispute such claim or lien, or the assumption or
11 adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

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

15 25. The requirements of Bankruptcy Rules 6004(h) and 6006(d) are hereby waived to
16 the extent they apply.

17 26. The Court retains jurisdiction to hear and determine all matters arising from or related
18 to the implementation, interpretation, or enforcement of this Bidding Procedures Order.

19 *****END OF ORDER*****

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COURT SERVICE LIST

All ECF Recipients

EXHIBIT 2

Bidding Procedures

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10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

13 In re:

14 STORCENTRIC, INC., *et al.*,

15 Debtors.¹

Case No. 22-50515 (MEH)

Chapter 11

(Jointly Administered)

**FORM OF BIDDING PROCEDURES FOR
THE SALE OF THE DEBTORS' ASSETS**

Date: July 21, 2022

Time: 10:00 a.m. (Prevailing Pacific Time)

Place: United States Bankruptcy Court

280 South First Street

Courtroom 11

San Jose, CA 95113-3099 and

Telephonic/Video

Judge: Hon. M. Elaine Hammond

23 On June 20, 2022 (the "Petition Date"), StorCentric, Inc. and certain of its subsidiaries
24 (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the
25 United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") in the United States
26 Bankruptcy Court for the Northern District of California, San Jose Division (the "Court"). On June
27 30, 2022, the Debtors filed the *Motion of Debtors for Entry of Order (A)(I) Approving the Bidding*

28 ¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are:
StorCentric, Inc. (6210); Nexsan Technologies Incorporated (5244); Nexsan Corporation (9778); Connected Data, Inc.
(5504); Drobo, Inc. (2545); Retrospect, Inc. (0638); VS Acquisition Company, LLC. The Debtors' business address is
1289 Anvilwood Avenue, Sunnyvale, CA 94089.

1 *Procedures, (II) Approving the Stalking Horse Bid Protections, (III) Scheduling the Bid Deadlines*
2 *and Auction, (IV) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (V)*
3 *Approving the Form and Manner of Notice Thereof, (VI) Approving Contract Assumption and*
4 *Assignment Procedures, and (VII) Granting Related Relief; and (B)(I) Authorizing the Sale of The*
5 *Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances and (II) Approving*
6 *Assumption and Assignment of Executory Contracts and Unexpired Leases; and (C) Granting Related*
7 *Relief [Docket No. 65] (the “Motion”) seeking approval of, among other things, the procedures by*
8 *which the Debtors are authorized to conduct an auction (the “Auction”), if any, for the sale (the “Sale”)*
9 *of all, substantially all, or any combination of the Debtors’ assets (the “Assets”) to the Winning*
10 *Bidder.² On [●], 2022, the Court entered an order with respect to the Motion [Docket No. [●]] (the*
11 *“Bidding Procedures Order”) approving the procedures contemplated herein, (the “Bidding*
12 *Procedures”) and granting certain related relief.*

13 **Marketing Process and Participation Requirements**

14 **A. Confidentiality Agreement.**

15 The Debtors, in consultation with their proposed financial advisor, Force 10 Partners (“Force
16 10”) and Newlight Capital, LLC (the “Servicer”), will develop a list (the “Potential Bidder List”) of
17 parties whom they believe may be interested in, and whom the Debtors reasonably believe would have
18 the financial resources to consummate, a sale transaction pursuant to Bankruptcy Code section 363 (a
19 “Sale Transaction”).

20 The Debtors shall commence distributing by July 1, 2022 (to the extent not already
21 distributed), to each party on the Potential Bidder List and any other interested party: (i) a copy of the
22 Bidding Procedures and the Bidding Procedures Order, (ii) a form of confidentiality agreement (a
23 “Confidentiality Agreement”), and (iii) such other materials as the Debtors deem appropriate under
24 the circumstances.

25 To receive due diligence information, including full access to the Debtors’ electronic data
26 room and additional non-public information regarding the Debtors, a party potentially interested in
27 bidding on the Assets must deliver an executed Confidentiality Agreement on terms acceptable to the
28 Debtors, to the extent not already executed, to proposed financial advisor for the Debtors, Force 10
Partners, 5271 California Ave., Ste. 270, Irvine, CA 92617, Attn: Darryl Myers
(dmyers@force10partners.com) (collectively, the “Debtor Notice Parties”). The Consultation Parties
(as defined below) shall also be provided access to the electronic data room upon request.

29 **B. Electronic Data Room and Due Diligence.**

30 After a party delivers the executed Confidentiality Agreement in accordance with the Bidding
31 Procedures, the Debtors shall provide such party with access to an electronic data room and due
32 diligence information, as reasonably requested by such party, and the Debtors shall post substantially
33 all written due diligence provided to any such party to the Debtors’ electronic data room. All due
34 diligence requests must be directed to Force 10. To the extent necessary and reasonably practicable,
35 Force 10 will also facilitate meetings between any such party and the Debtors’ other restructuring
36 advisors and management team. The Debtors and their advisors will coordinate all reasonable requests
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38 ² Capitalized terms used but not defined herein have the meaning given to such terms in the Bidding Procedures Motion.

1 from such parties for additional information and due diligence access; provided that the Debtors may
2 decline to provide such information to any party who, at such time and in the Debtors' reasonable
3 business judgment, in consultation with the Consultation Parties,³ has not established that it intends in
4 good faith to, or has the capacity to, consummate a Sale Transaction. Parties which enter into
5 Confidentiality Agreements with the Debtors will not, directly or indirectly, contact or initiate, or
6 engage in discussions with respect to matters relating to the Debtors or a potential transaction with
any customer, supplier, or contractual counterparty of the Debtors without the prior written consent of
the Debtors. The due diligence period will end on the Bid Deadline (as defined below), and, after the
Bid Deadline, the Debtors will have no obligation to furnish or update any due diligence information.

7 **C. Non-Binding Bidder Qualification Summaries.**

8 In order to be eligible to be selected as a Stalking Horse Bidder or to be eligible to submit a
9 Bid (each as defined below), a party must submit a non-binding bidder qualification summary (a
10 "Bidder Qualification Summary") in writing to the Debtor Notice Parties by August 2, 2022 (which
11 deadline may be extended by the Debtors, in consultation with the Consultation Parties without
12 notice or hearing before the Court); *provided, however*, that the Debtors reserve their right to waive
the requirement for Eligible Bidders to submit a Bidder Qualification Summary for any party in the
Debtors' reasonable business judgment with the consent of any one of the Prepetition Secured
Parties and in consultation with the Consultation Parties, without further order from the Court.

13 The Bidder Qualification Summary must: (i) identify the interested party, including details
14 on the acquisition structure, ownership structure, as well as legal form and jurisdiction of the
15 interested party; (ii) identify with reasonable specificity the Debtors' assets ("Assets") the party is
16 interested in acquiring; (iii) set forth a proposed purchase price for the proposed Sale Transaction,
17 including by identifying any cash and non-cash components of the proposed Sale Transaction
18 consideration, including, for example, any liabilities to be assumed; (iv) provide detailed
19 information regarding the proposed financing sources; (v) outline the remaining due diligence
requirements; (vi) identify any proposed conditions to closing the Sale Transaction, including, but
not limited to, required approvals; and (vii) provide evidence of such interested party's financial
capability to close a proposed Sale Transaction, which may include financial statements of, or
verified financial commitments obtained by, such party (with the assistance of their advisors).

20 The submission of a Bidder Qualification Summary does not (i) obligate such party to submit
21 a Bid or to participate in the sale process, or (ii) exempt such party from also having to submit a Bid
22 by the Bid Deadline to participate in the Auction (as defined below). The Debtors shall provide the
Consultation Parties, the DIP Lender (as defined below), and the Other Secured Parties⁴ with copies⁵

23 ³ The term "Consultation Parties" shall mean: (i) the "Prepetition Secured Parties," who are: (A) UMB Bank, National
24 Association, in its capacities as trustee and disbursing agent in connection with the Fixed Rate Senior Notes, Series
25 2020-3 (Collateralized Loan Insurance Program) issued by StorCentric, Inc. (the "Trustee"); and (B) the Servicer; (ii)
26 Peleus Insurance Company (the "Insurer"); (iii) Serene Investment Management, LLC (the "DIP Lender"); (iv) the
27 Other Secured Parties; and (v) the Official Committee of Unsecured Creditors for StorCentric, Inc., et al., as appointed
by the United States Trustee (the "Committee"). The Insurer, pursuant to a Lender Collateral Residual Value Insurance
Policy (the "Insurance Policy"), has rights, under certain circumstances, to step into the position of the Prepetition
Secured Parties through subrogation or assignment, as applicable. To the extent the Insurer has exercised those rights,
it shall be included within the definition of Prepetition Secured Parties for the purposes of these Bidding Procedures.

28 ⁴ The "Other Secured Parties" means Libertas Funding LLC and Web Bank.

⁵ For the avoidance of doubt, the Debtors shall provide to the Consultation Parties, upon request, copies of any and all

1 of the Bidder Qualification Summaries.

2 Selecting a Stalking Horse Bidder and Bid Protections

3 The Debtors may, at any time on or before August 19, 2022, with the consent of the DIP
4 Lender and the Prepetition Secured Parties and in consultation with the Consultation Parties, select
5 one or more parties that have submitted a Qualified Bid, to act as a stalking horse bidder (the “Stalking
6 Horse Bidder,” and the Bid of such Stalking Horse Bidder, the “Stalking Horse Bid”) with respect to
7 substantially all of the Debtors’ Assets and provide such Stalking Horse Bidder with Bid Protections
8 (as defined below); provided, that in order to be eligible to be selected as a Stalking Horse Bidder, a
9 party must have submitted the Sale Documents (as defined below) to the Debtor Notice Parties so as
10 to be **actually received** on or before August 16, 2022, at 5:00 p.m. (prevailing Pacific Time); provided,
11 further, that the Stalking Horse Bid shall not be conditioned on a Financing Contingency or Diligence
12 Out (each as defined below).

13 In connection with any stalking horse agreement with a Stalking Horse Bidder, and as
14 approved by the Bidding Procedures Order, the Debtors shall be authorized (but not obligated), in an
15 exercise of their reasonable business judgment, in consultation with the Consultation Parties, to (i)
16 provide a breakup fee and (ii) agree to reimburse the reasonable and documented out-of-pocket fees
17 and expenses of such Stalking Horse Bidder (collectively, the “Bid Protections”). The aggregate
18 amount that may be paid to a Stalking Horse Bidder on account of the Bid Protections shall not exceed
19 three percent (3%) of such Stalking Horse Bidder’s proposed Purchase Price.

20 Promptly upon execution and acceptance of a Stalking Horse Bid, the Debtors shall file a
21 notice with the Court regarding their selection of a Stalking Horse Bidder and attach a copy of the
22 Stalking Horse Bid. The Debtors shall not provide Bid Protections to any Stalking Horse Bidder on
23 account of the portion of such Bid that is a credit bid.

24 Bidding and Auction Process

25 **A. Bid Deadline.**

26 Each party that (a) timely submits a Bidder Qualification Summary, including any Stalking
27 Horse Bidder (unless the obligation to submit a Bidder Qualification Summary is waived in
28 accordance with the terms of the Bidding Procedures), or (b) submits, at least five (5) business days
prior to the Bid Deadline, an executed Confidentiality Agreement and reasonable evidence
demonstrating the party’s financial capability to consummate a Sale as reasonably determined by
the Debtors, in consultation with the Consultation Parties, shall be an “Eligible Bidder.” Any
Eligible Bidder that desires to make a binding proposal, solicitation, or offer, including any Stalking
Horse Bid (each, a “Bid”), shall transmit the Bid to the Debtor Notice Parties so as to be **actually**
received on or before August 16, 2022, at 5:00 p.m. (prevailing Pacific Time) (the “Bid Deadline”).
The Bid Deadline may be extended by the Debtors, with the consent of any one of the Prepetition
Secured Parties, and in consultation with the Consultation Parties.

29 _____
30 Bidder Qualification Summaries, Stalking Horse Bids, Qualified Bids, and Sale Documents actually received, and not
31 summaries of Bidder Qualification Summaries, Stalking Horse Bids, Bids, Qualified Bids, and Sale Documents
32 received.

1 **B. Bid Requirements.**

2 All Bids must be submitted in writing and satisfy the following requirements (collectively,
3 the “Bid Requirements”):

4 *i. Purchase Price*

5 Each Bid must clearly set forth the purchase price to be paid, specifying (i) any cash and (ii)
6 any non-cash components, in sufficient detail satisfactory to the Debtors, in consultation with the
7 Consultation Parties (the “Purchase Price”). Each Bid for a combination of Assets, other than for all
8 or substantially all of the Assets, must: (w) expressly identify the Assets being bid upon by general
9 category or logical business grouping, (e.g. accounts receivable and inventory, machinery and
10 equipment, real estate and intellectual property (whether in connection with another asset category
11 or on a standalone basis); (x) provide a breakdown of the share of the Purchase Price allocable to
12 each of the Assets included in the Bid; (y) state whether the Bid is conditioned upon the Bid being
13 the Winning Bid (as defined below) for any of the other Assets included in the Bid (and, if so, which
14 Assets); and (z) state whether the Eligible Bidder is willing to purchase any of the Assets included
15 in the Bid individually, and if so, the price such Eligible Bidder would pay for each such Asset.

12 *ii. Deposit*

13 Each Bid must be accompanied by a cash deposit in an amount equal to the greater of (a)
14 10% of the cash portion of the Purchase Price, before any reductions for assumed liabilities or other
15 adjustments, or (b) \$1,000,000.00 (the “Deposit”), to be submitted by wire transfer to an escrow
16 account to be identified and established by the Debtors.

15 *iii. Executed Agreement*

16 Each Bid must be based on the proposed purchase agreement, which will be prepared by the
17 Debtors in consultation with the Consultation Parties, and will be posted to the data room no later
18 than August 1, 2022 (the “Purchase Agreement”). The Purchase Agreement submitted with each Bid
19 must include executed transaction documents, signed by an authorized representative of such
20 Eligible Bidder, pursuant to which the Eligible Bidder proposes to effectuate a Sale Transaction (a
21 “Modified Purchase Agreement”). Each Bid must also include a copy of the Modified Purchase
22 Agreement marked against the Purchase Agreement to show all changes requested by the Eligible
23 Bidder (including those related to the assumption and assignment of contracts and licenses, and other
24 material terms such that the Debtors may determine how such Bid compares to the terms of
25 competing Bids). Each Modified Purchase Agreement must provide (i) a commitment to close within
26 two business days after all closing conditions are satisfied and in any event within 14 calendar days
27 of being declared the Winning Bidder (as defined below) and (ii) a commitment that the Eligible
28 Bidder will (A) make any necessary filings under the Hart Scott Rodino Antitrust Improvements Act
of 1976, as amended (the “HSR Act”) and any other applicable antitrust, competition or merger
control laws, rules or regulations enacted or promulgated by any governmental authority (“Foreign
Corruption Laws”), and (B) submit all necessary filings under the HSR Act and any Foreign
Competition Laws on the second business day following the conclusion of the applicable Auction.

27 *iv. Committed Financing*

28 Each Bid must contain written evidence of the Eligible Bidder’s ability to consummate a Sale

Transaction within 14 calendar days of such Bid being declared the Winning Bid. To the extent that a Bid is not accompanied by evidence of such party's capacity to consummate the Sale set forth in its Bid with cash on hand, each Bid must include committed financing, documented to the Debtors' satisfaction, in consultation with the Consultation Parties, that demonstrates that such party has received sufficient debt and/or equity funding commitments to satisfy the Bid's Purchase Price and other obligations thereunder. Such funding commitments or other financing must not be conditioned upon and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors, in consultation with the Consultation Parties.

v. *No Financing or Diligence Outs*

A Bid shall not be conditioned on the obtaining or the sufficiency of financing or any internal approval (a "Financing Contingency"), or on the outcome or review of due diligence (a "Diligence Out"), or on the receipt of any regulatory or third party approvals (except as provided in the Bidding Procedures with respect to Government Approvals), but may be subject to the accuracy at the closing of specified representations and warranties or the satisfaction at the closing of specified conditions.

vi. *Regulatory and Third Party Approvals*

A Bid must set forth each regulatory and third-party approval required for the Eligible Bidder to consummate the Sale Transaction, and the time period within which the Eligible Bidder expects to receive such regulatory and third-party approvals, and the Debtors (in consultation with the Consultation Parties) may consider the timing and likelihood of obtaining such approvals, and any actions the Eligible Bidder will take to ensure receipt of such approval(s) as promptly as possible, when considering the other bid assessment criteria.

vii. *Assumed Liabilities*

Each Bid must identify the Debtors' liabilities that each Eligible Bidder seeks to assume.

viii. *Adequate Assurance of Future Performance*

Each Bid must: (i) identify any executory contracts and unexpired leases to be assumed and assigned in connection with such Bid; (ii) provide for the payment by the Eligible Bidder of all cure costs related to such executory contracts and unexpired leases; (iii) demonstrate, in the Debtors' reasonable business judgment, in consultation with the Consultation Parties, that the Eligible Bidder can provide adequate assurance of future performance under all such executory contracts and unexpired leases; and (iv) identify with particularity the Debtors' other contracts and leases with respect to which the Eligible Bidder seeks to assume and receive an assignment.

ix. *Corporate Authority*

A Bid must include written evidence reasonably acceptable to the Debtors demonstrating appropriate corporate authorization to consummate the proposed Sale Transaction; provided that, if the Eligible Bidder is an entity specially formed for the purpose of effectuating the Sale Transaction, then the Eligible Bidder must also furnish written evidence reasonably acceptable to the Debtors of the approval of the Sale Transaction by the equity holder(s) of such Eligible Bidder.

1 x. *Disclosure of Identity of Eligible Bidder*

2 A Bid must fully disclose the identity of each entity that will be bidding for or purchasing
3 the Assets or otherwise participating in connection with such Bid (including the identity of any
4 parent companies of such entity), and the complete terms of any such participation, including any
5 connections, agreements, arrangements or understandings (a) with the Debtors, any officer, director,
6 or equity holder of the Debtors, or any other known, potential, or prospective bidder and (b)
7 concerning a collaborative or joint bid or any other combination concerning the proposed Bid;
8 provided that, if the Eligible Bidder is an entity specially formed for the purpose of effectuating the
9 Sale Transaction, then the Eligible Bidder must fully disclose the identity of each direct and indirect
10 equity holder of such Eligible Bidder.

11 xi. *Contact Information and Affiliates*

12 A Bid must provide the identity and contact information for the Eligible Bidder and full
13 disclosure of any parent companies of the Eligible Bidder.

14 xii. *As-Is, Where-Is, Finality and Back-up Bid*

15 Each Bid must include a written acknowledgement and representation that the Eligible
16 Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Assets prior to
17 making its offer; (ii) has relied solely upon its own independent review, investigation, and/or
18 inspection of any documents and/or the Assets in making its Bid; (iii) did not rely upon any written
19 or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express,
20 implied by operation of law, or otherwise, regarding the Assets or the completeness of any
21 information provided in connection therewith or the Auction; and (iv) should it be deemed the
22 Winning Bidder (as defined below) with respect to the proposed Sale Transaction and close such
23 Sale Transaction, such Eligible Bidder shall acquire the Assets to be acquired without any surviving
24 representations or warranties.

25 Each Bid shall include a statement reflecting the Eligible Bidder's understanding that the
26 Bid is binding and irrevocable and affirmatively state that the Bidder is willing to serve as a Backup
27 Bidder if selected.

28 xiii. *Honoring the Bid Procedures*

 Each Bid must affirmatively state agreement, and by submitting its Bid, each Eligible Bidder
is so agreeing, to abide by and honor the terms of the Bidding Procedures (including if such Bid is
declared the Winning Bidder or Backup Bidder (as defined below)) and to refrain from submitting
a Bid or seeking to reopen the Auction after conclusion of the Auction. The submission of a Bid
shall constitute a binding and irrevocable offer to acquire the Assets reflected in such Bid. Each Bid
must state that the Eligible Bidder consents to the jurisdiction of the Court and to the entry of a final
judgment or order with respect to the Bid, as well as with respect to any aspect of these Bid
Procedures, and all orders of the Court entered with respect to the Sale, if it is determined that the
Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the
parties.

 xiv. *Additional Diligence*

1 Each Eligible Bidder shall comply with all reasonable requests for additional information
2 and due diligence access by the Debtors or their advisors regarding the Bid.

3 *xv. Expenses*

4 Each Bid, except for a potential Stalking Horse Bid, shall not contemplate or request (and no
5 Eligible Bidder that is not a Stalking Horse Bidder shall receive) any break-up fee, transaction fee,
6 termination fee, expense reimbursement, or any similar type of payment or reimbursement, and by
submitting its Bid, each Eligible Bidder is agreeing to refrain from and waive any assertion or request
for reimbursement on any basis, including under section 503(b) of the Bankruptcy Code.

7 **C. Designation of Qualified Bidder.**

8 *i. Qualified Bidder*

9 A Bid will be considered a “Qualified Bid,” and each Eligible Bidder that submits a Qualified
10 Bid will be considered a “Qualified Bidder,” if the Debtors determine in their reasonable business
11 judgment, in consultation with the Consultation Parties, that such Bid: (i) satisfies the Bid
12 Requirements; and (ii) is reasonably likely (based on availability of financing, antitrust or other
13 regulatory issues, experience, and other considerations) to be consummated, if selected as the
14 Winning Bid, within a time-frame reasonably acceptable to the Debtors, in consultation with the
Consultation Parties. To the extent there is any dispute regarding whether a Bid submitted prior to
the applicable Bid Deadline is a Qualified Bid, such dispute may be raised with the Bankruptcy
Court on an expedited basis prior to the commencement of the Auction.

15 Notwithstanding anything to the contrary herein, any Bid submitted by or on behalf of one
16 or more of the Prepetition Secured Parties shall be considered a Qualified Bid, and any such bidder
shall be considered a Qualified Bidder.

17 *ii. Notification*

18 Within two business days after the Bid Deadline, the Debtors will notify each Eligible Bidder
19 whether such party is a Qualified Bidder.

20 *iii. Bid Modifications*

21 Between the date that the Debtors notify a Bidder that it is a Qualified Bidder and the
22 Auction: (i) the Debtors, in consultation with the Consultation Parties, may discuss, negotiate, or
23 seek clarification of any Qualified Bid from a Qualified Bidder; and (ii) a Qualified Bidder may not,
24 without the prior written consent of the Debtors (which shall consult with the Consultation Parties
25 before granting such consent), modify, amend, or withdraw its Qualified Bid, except for proposed
amendments to increase their Purchase Price, or otherwise improve the terms of, the Qualified Bid,
provided that any improved Qualified Bid must continue to comply with the requirements for
Qualified Bids set forth in the Bidding Procedures.

26 **D. Bid Selection and Criterion.**

27 *i. Baseline Bid*

28 No later than one business day before the Auction, the Debtors will notify all Qualified

1 Bidders of: (i) the highest or otherwise best Qualified Bid with respect to all or substantially all of
2 the Debtors' Assets ("All Assets"); or (ii) if, in the Debtors' reasonable business judgment, in
3 consultation with the Consultation Parties, separating the Assets into more than one potential sale is
4 in the best interest of their estates, the highest or otherwise best Qualified Bid with respect to each
5 such delineation of assets (each, an "Asset Package"). Each such highest or otherwise best Qualified
6 Bid, which Qualified Bid may be a Stalking Horse Bid, shall be the "Baseline Bid" and the Debtors
7 shall provide copies of the documents supporting each Baseline Bid to all Qualified Bidders.

8 *ii. Bid Assessment Criteria*

9 The determination of which Qualified Bid constitutes the Baseline Bid and, ultimately, the
10 Winning Bid shall take into account any factors the Debtors, in consultation with the Consultation
11 Parties, reasonably deem relevant to the value of the Qualified Bid to the Debtors' estates, including,
12 among other things: (i) the type and amount of Assets sought to be purchased; (ii) the amount and
13 nature of the Purchase Price; (iii) the Qualified Bidder's ability to consummate a Sale and the timing
14 thereof; (iv) the effect on the Debtors' ability to wind down their estates in accordance with
15 applicable law; (v) the net benefit to the Debtors' estates, taking into account, if applicable, any
16 Stalking Horse Bidder's right to any Bid Protections; and (vi) any other qualitative or quantitative
17 factor the Debtors deem reasonably appropriate under the circumstances.

18 *iii. Credit Bids*

19 The DIP Lender, the Prepetition Secured Parties, and the Other Secured Parties shall each
20 have the right to credit bid for the Assets to the extent provided in the final order approving debtor-
21 in-possession financing entered in the Cases [Docket No. ___] (the "Final DIP Order") without the
22 need to provide a deposit or satisfy the Bid Requirements, except to the extent set forth herein, and
23 the DIP Lender and each of the Prepetition Secured Parties and the Other Secured Parties shall be
24 deemed to be an Eligible Bidder, and shall have the right at, or at any time prior to, the Auction to
25 credit bid any portion and up to the entire amount of its outstanding allowed secured claims pursuant
26 to section 363(k) of the Bankruptcy Code for its collateral, which credit bid shall be deemed to be a
27 Qualified Bid (the "Credit Bid Right"), provided that (a) any credit bid by or on behalf of any party
28 other than the DIP Lender and the Prepetition Secured Parties must be submitted by the Bid Deadline
and (b) any credit bid by or on behalf of any of the Prepetition Secured Parties shall contain a cash
component sufficient to pay the DIP Obligations (as defined in the Final DIP Order) in full in cash
at closing, and (c) any credit bid by or on behalf of any other secured party (i.e. other than the DIP
Lender or any of the Prepetition Secured Parties) shall contain a cash component sufficient to pay
any DIP Obligations and Prepetition Notes Obligations (as defined in the Final DIP Order) in full in
cash at closing. If any party exercises its Credit Bid Right, it shall no longer be a Consultation Party
under these Bidding Procedures.

E. The Auction Procedure.

i. Time and Place

If the Debtors receive two or more Qualified Bids with respect to All Assets or the same or
similar Asset Package, as applicable, then the Debtors will conduct an auction (the "Auction") to
determine the Winning Bidder(s) (as defined below) with respect to such Assets. The Auction shall
take place at 11:00 am (prevailing Pacific Time) on August 23, 2022, and will (unless the Debtors
provide notice otherwise) be held electronically via video/telephone, or at such later date, time or

1 other place, as selected by the Debtors, in consultation with the Consultation Parties, or approved by
2 order of the Court. If the Debtors receive only one Qualified Bid with respect to All Assets or the
3 same or similar Asset Package, as applicable, then the Debtors, with the consent of the DIP Lender
4 and the Prepetition Secured Parties and in consultation with the Consultation Parties, may select
5 such Qualified Bid as the Winning Bid and notify all other Bidders promptly thereafter.

6 *ii. Eligibility*

7 Only Qualified Bidders that have submitted Qualified Bids by the Bid Deadline (or, as
8 provided above, the DIP Lender and the Prepetition Secured Parties) are eligible to participate in the
9 Auction, subject to other limitations as may be reasonably imposed by the Debtors in accordance
10 with the Bidding Procedures and in consultation with the Consultation Parties; *provided* that such
11 other limitations are (i) not inconsistent with the Bidding Procedures Order, any other order of the
12 Bankruptcy Court, or the Bankruptcy Code, (ii) disclosed orally or in writing to all Qualified Bidders,
13 and (iii) determined by the Debtors, in consultation with the Consultation Parties, to further the goals
14 of the Bidding Procedures.

15 *iii. Attendance*

16 Qualified Bidders participating in the Auction must appear at the Auction (which may be
17 virtual), or through a duly authorized representative. If a Qualified Bidder appears through a duly
18 authorized representative, such representative must have been granted a valid and enforceable power
19 of attorney or have other written proof evidencing his or her ability to bind such party, which
20 document(s) shall be delivered to the Debtors at least one business day before the Auction. The
21 Auction will be conducted openly and all creditors and counsel or other professional advisors to the
22 Consultation Parties may be permitted to attend, *provided* that the Debtors may, in their sole and
23 exclusive discretion, establish a reasonable limit to the number of representatives and/or professional
24 advisors that may appear on behalf of or accompany each Qualified Bidder or creditor at the Auction.
25 Notwithstanding the foregoing, the Debtors shall provide for at least one professional from each of
26 the Committee's proposed counsel and proposed financial advisor to attend the Auction.

27 *iv. Closing the Auction*

28 The Auction shall continue until the Debtors select, in their reasonable business judgment,
with the consent of the DIP Lender and the Prepetition Secured Parties and in consultation with the
Consultation Parties, pursuant to the Bidding Procedures, the highest or otherwise best Qualified Bid
for All Assets or each of the Asset Packages, as applicable. Such Qualified Bid shall be declared the
"Winning Bid," and such Qualified Bidder, the "Winning Bidder," and at which point the Auction
will be closed. The Debtors may also select, in their reasonable business judgment, with the consent
of the DIP Lender and the Prepetition Secured Parties and in consultation with the Consultation
Parties, pursuant to the Bidding Procedures, the next-highest or otherwise second-best Qualified Bid
for All Assets or each Asset Package, as applicable, to be the "Backup Bidder."⁶ As soon as
reasonably practicable after closing the Auction, the Debtors, in consultation with the Consultation
Parties, shall finalize definitive documentation in form and substance reasonably satisfactory to the
DIP Lender and the Prepetition Secured Parties to implement the terms of the Winning Bid, and, as

⁶ Notwithstanding anything to the contrary in these Bidding Procedures, if the DIP Lender or one or more the Prepetition Secured Parties elect(s) to submit a bid at the Auction, each such bidder shall not have a consent right concerning selection of the Winning Bidder and Backup Bidder so long as its bid is pending.

1 applicable, cause such definitive documentation to be filed with the Court. The acceptance by the
2 Debtors of the Winning Bid is conditioned upon approval by the Court of the Winning Bid.

3 **F. Terms of Overbids.**

4 Any Bids made at the Auction by a Qualified Bidder subsequent to the Debtors'
5 announcement of the Baseline Bid(s) shall be "Overbids" and must comply with the conditions set
6 forth below and shall be made and received on an open basis, with all material terms of each Overbid
7 fully disclosed to all other Qualified Bidders.

8 *i. Minimum Initial Overbid*

9 Any initial Overbid to the Baseline Bid(s) shall be no less than the value of the Baseline
10 Bid(s)'s Purchase Price of the Assets, plus \$100,000, plus the amount of the Bid Protections (if such
11 Baseline Bid was a Stalking Horse Bid).

12 *ii. Minimum Overbid Increment*

13 Any subsequent Overbids shall be in increments of value equal to \$100,000, or an amount as
14 determined by the Debtors, in consultation with the Consultation Parties, in an exercise of their
15 reasonable business judgment.

16 *iii. Same or Better Terms*

17 Each Overbid must be on terms that in their totality are determined by the Debtors, in
18 consultation with the Consultations Parties, to be the same or better than the terms of the starting
19 Bid.

20 *iv. Announcing Highest Bid*

21 After each Overbid, the Debtors shall announce the material terms of the Overbid, including
22 value attributed to the Overbid.

23 **G. Backup Bidder.**

24 *i. Designation of Backup Bidder*

25 If an Auction is conducted, then the Qualified Bidder with the next-highest or otherwise
26 second-best Qualified Bid at the Auction for All Assets or each Asset Package, as applicable, as
27 determined by the Debtors in the exercise of their reasonable business judgment, with the consent of
28 the DIP Lender and the Prepetition Secured Parties and in consultation with the Consultation Parties,
shall be required to serve as a backup bidder (the "Backup Bidder") until such time as the applicable
Sale is consummated, and each Qualified Bidder shall agree and be deemed to agree to be the Backup
Bidder if so designated by the Debtors.

ii. Identity of Backup Bidder

The identity of the Backup Bidder and the amount and material terms of the Qualified Bid
of the Backup Bidder shall be announced by the Debtors at the conclusion of the Auction at the same
time the Debtors announce the identity of the Winning Bidder. The Backup Bidder shall be required

1 to keep its Qualified Bid (or if the Backup Bidder submits one or more Overbids at the Auction, its
2 final Overbid) open and irrevocable until such time as the Sale is consummated.

3 *iii. Consummating a Sale with Backup Bidder*

4 If a Winning Bidder fails to consummate the approved Sale contemplated by its Winning
5 Bid, then the Debtors may select the Backup Bidder as the Winning Bidder, and such Backup Bidder
6 shall be deemed a Winning Bidder for all purposes. The Debtors will be authorized, but not required,
to consummate all transactions contemplated by the Bid of such Backup Bidder without further order
of the Court or notice to any party.

7 *iv. Sale Hearing*

8 The evidentiary hearing to consider approval of the Winning Bid (the “Sale Hearing”) will
9 be held at 11:00 a.m. (prevailing Pacific Time) on August 26, 2022, or such other date as the Court’s
10 docket may accommodate. The Sale Hearing may be adjourned or rescheduled as ordered by the
11 Court, or by the Debtors in consultation with the Consultation Parties, but without further notice to
creditors and parties in interest other than by announcement by the Debtors of the adjourned date at
the Sale Hearing.

12 **H. Return of Deposit.**

13 The Deposits for each Qualified Bidder shall be held in one or more non-interest-bearing
14 escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned
15 (other than with respect to the Winning Bidder and the Backup Bidder) within three business days
after the Auction is closed, or as soon as is reasonably practicable thereafter. Upon return of the
Deposits, the applicable Qualified Bidders shall receive any interest that will have accrued thereon.

16
17 The Deposit of the Winning Bidder shall be applied to the purchase price of such Sale at
closing. If a Winning Bidder (including a Backup Bidder which becomes a Winning Bidder) fails to
18 consummate a proposed transaction because of a breach by such Winning Bidder, the Debtors will
not have any obligation to return the Deposit deposited by such Winning Bidder, which may be
19 retained by the Debtors as liquidated damages, in addition to any rights, remedies, or causes of action
that may be available to the Debtors. If a Winning Bidder consummates a proposed transaction or
20 fails to consummate a proposed transaction but the Debtors elect to not consummate the proposed
transaction with the Backup Bidder, then the Backup Bidder’s Deposit shall be returned within three
21 business days thereof, or as soon as is reasonably practicable thereafter.