

**ENTERED**

August 20, 2024

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

CONN'S, INC., et al.<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-33357 (ARP)

(Jointly Administered)

**ORDER (A) APPROVING CERTAIN BIDDING PROCEDURES  
AND THE FORM AND MANNER OF NOTICE THEREOF, (B) SCHEDULING  
AN AUCTION AND A HEARING ON THE APPROVAL OF THE SALE OF ALL  
OR SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS, (C) ESTABLISHING  
CERTAIN ASSUMPTION AND ASSIGNMENT PROCEDURES AND APPROVING  
THE MANNER OF NOTICE THEREOF, AND (D) GRANTING RELATED RELIEF**

Upon the motion (the "Motion"),<sup>2</sup> of the Debtors in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), seeking, pursuant to sections 105, 363, and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, and 9008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Section B of Procedures for Complex Chapter 11 Cases in the Southern District of Texas (the "Complex Case Procedures"), an order (this "Order") (a) approving certain bidding procedures attached hereto as **Exhibit 1** (the "Bidding Procedures") for the sale or sales (collectively, the "Sale") of all or substantially all of the Debtors' assets (the "Assets"), or any portion thereof, and the form and manner of notice thereof substantially in the form attached hereto as **Exhibit 2** (the "Sale Notice"),

<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of each of the Debtor's federal tax identification number, are: Conn's, Inc. (2840), Conn Appliances, Inc. (0706), CAI Holding, LLC (2675), Conn Lending, LLC (9857), Conn Credit I, LP (0545), Conn Credit Corporation, Inc. (9273), CAI Credit Insurance Agency, Inc. (5846), New RTO, LLC (6400), W.S. Badcock LLC (2010), W.S. Badcock Credit LLC (5990), and W.S. Badcock Credit I LLC (6422). The Debtor's service address is 2445 Technology Forest Blvd., Suite 800, The Woodlands, TX 77381.

<sup>2</sup> Capitalized terms not otherwise defined in this Order shall have the meanings given to them in the Motion or the Bidding Procedures, as applicable.

(b) authorizing, but not directing, the Debtors to designate a Stalking Horse Bidder in accordance with the Bidding Procedures, (c) scheduling an Auction and a Sale Hearing in connection with the Sale, and (d) establishing certain assumption and assignment procedures and approving the manner of notice thereof substantially in the form attached hereto as **Exhibit 3** (the “Assumption and Assignment Notice,”); the Court having reviewed the Motion and conducted a hearing to consider the relief requested therein regarding the Bidding Procedures and related matters (the “Bidding Procedures Hearing”); and the Court having considered the statements of counsel, the Sale Declaration filed in support of the Motion, and the evidence presented at the Bidding Procedures Hearing; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY FOUND AND DETERMINED THAT:<sup>3</sup>**

A. The Court has jurisdiction over this matter and over the property of the Debtors and its bankruptcy estate pursuant to 28 U.S.C. §§ 157(a) and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M), (N), and (O). The statutory predicates for the relief sought herein are sections 105, 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9007, and 9008. Venue of the Chapter 11 Case and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The Debtors have offered good and sufficient reasons for, and the best interest of their estates will be served by, the Court granting the Motion to the extent provided in this Order, including (a) approving the Bidding Procedures, attached hereto as **Exhibit 1**, and form and manner of notice thereof substantially in the form of the Sale Notice, attached hereto as **Exhibit 2**,

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<sup>3</sup> The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. All findings of fact and conclusions of law announced by the Court at the Bidding Procedures Hearing are hereby incorporated herein to the extent not inconsistent herewith.

(b) authorizing, but not directing, the Debtors to designate a Stalking Horse Bidder in accordance with the Bidding Procedures, (c) scheduling an Auction and a Sale Hearing in connection with the Sale, and (d) establishing certain assumption and assignment procedures and approving the manner of notice thereof substantially in the form of the Assumption and Assignment Notice, attached hereto as **Exhibit 3**.

C. Good and sufficient notice of the relief sought in the Motion has been given, and no further notice is required except as set forth herein with respect to the designation of a Stalking Horse Bidder, the Auction, and the Sale Hearing. Subject to the immediately preceding sentence, a reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

D. In accordance with Bankruptcy Rule 6004, the Debtors have properly filed and noticed the Motion. The issuance of this Order as of the date hereof, including approval of the Bidding Procedures, is supported by evidence of compelling business justifications and other circumstances demonstrating that the relief granted by this Order is necessary to maximize value for the Debtors and their estates.

E. The proposed Sale Notice, and the Assumption and Assignment Notice, as set forth in the Motion and this Order, are appropriate, sufficient, and reasonably calculated to provide all interested parties with timely and proper notice of the Auction, the Sale Hearing, the Bidding Procedures, and the Assumption and Assignment Procedures, and no other or further notice shall be required for the Sale or the assumption and assignment of contracts.

F. The process for filing the Stalking Horse Supplement and the granting of any Bid Protections is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of: (a) the identification of the Stalking Horse Bidder (and if the Stalking Horse

Bidder is a newly formed entity, then the Stalking Horse Bidder's parent company or sponsor); (b) the amount of the Stalking Horse Bid and what portion (if any) is cash; (c) whether the Stalking Horse Bidder has any connection to the Debtors other than those that arise from the Stalking Horse Bid; (d) any proposed Bid Protections; (e) the Stalking Horse APA, including all exhibits, schedules or attachments thereto; and (f) the Stalking Horse Objection Deadline (as defined below).

G. The Bidding Procedures are fair, reasonable, and appropriate under the circumstances, and are reasonably designed to maximize the value to be achieved for the Assets.

H. The Assumption and Assignment Procedures provided for herein and the Assumption and Assignment Notice are reasonable and appropriate and consistent with the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006. The Assumption and Assignment Procedures and the Assumption and Assignment Notice have been tailored to provide an adequate opportunity for all counterparties to assert any objections to the assumption and assignment of the Assumed Contracts and related Cure Costs.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Omitted.
2. All objections to the entry of this Order or to the relief provided herein that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled.

**I. Important Dates and Deadlines.**

3. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to implement the Bidding Procedures in accordance with the following timeline:

<i>Transaction Milestones</i>	
Date and Time  (all in prevailing Central Time)	Event or Deadline
August 20, 2024, at 1:00 p.m. (CT)	Hearing on Approval of the Bidding Procedures

August 30, 2024	Deadline to File Assumption and Assignment Notice
September 6, 2024 at 4:00 p.m. (CT)	Bid Deadline
September 10, 2024 at 10:00 a.m. (CT)	Determination of Qualified Bids
September 11, 2024 at 10:00 a.m. (CT)	Auction
Within 1 business day of conclusion of Auction	Deadline to Serve Post-Auction Notice
September 19, 2024 at 4:00 p.m. (CT)	Deadline to File Objection to Sale / Deadline to File Contract Objections
September 30, 2024	Deadline to File Reply to Objections
October 1, 2024, subject to Court availability	Sale Hearing

4. The failure to timely file an objection in accordance with this Order shall forever bar the assertion of any objection to the Motion or Sale Order and/or consummation of a Sale, including the assumption and assignment of the Assumed Contracts to a Successful Bidder pursuant to a purchase agreement, and shall be deemed to constitute any such party's waiver of the right to object to the entry of the applicable order and consummation of the Sale and all other transactions related thereto.

5. The Debtors reserve the right, following consultation with the Consultation Parties, and are authorized to, modify the above timeline in accordance with the Bidding Procedures, including any Auction that may take place.

## **II. Bidding Procedures.**

6. The Bidding Procedures, attached as **Exhibit 1** to this Order, are hereby approved in their entirety, incorporated by reference as if fully set forth herein, and shall govern all Bids and bidding procedures relating to the Assets. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to implement the Bidding Procedures in accordance therewith. The failure to specifically include or reference a particular provision of the Bidding Procedures shall not diminish or impair the effectiveness of such provision.

7. The process and requirements associated with submitting a Qualified Bid are approved as fair, reasonable, appropriate, and designed to maximize recoveries for the benefit of the Debtors' estates, creditors, and other parties in interest.

8. The deadline for submitting a Qualified Bid shall be **September 6, 2024, at 4:00 p.m. (prevailing Central Time)**, unless extended by the Debtor pursuant to the Bidding Procedures (the “Bid Deadline”). The Debtors may extend the Bid Deadline by up to two weeks upon request from the Official Committee of Unsecured Creditors (the “Committee”) and with the consent of the DIP Agent (not to be unreasonably withheld) in accordance with the Interim and Final DIP Orders; provided, the Committee may seek an expedited hearing from the Court if the Debtors do not extend the Bid Deadline following request from the Committee.

9. For the purposes of the Bidding Procedures: (a) any designated Stalking Horse Bidder will be considered a Qualified Bidder, and any Stalking Horse APA will be considered a Qualified Bid; and (b) in determining whether the Potential Bidders constitute Qualified Bidders, the Debtor may consider a combination of bids for the Assets.

10. All bidders submitting a Qualified Bid are deemed to have submitted to the exclusive jurisdiction of this Court with respect to all matters related to the Auction and the terms and conditions of the Sale of the Assets.

11. The Debtors shall inform Qualified Bidders that their Bids have been designated as Qualified Bids no later than **September 10, 2024, at 10:00 a.m. (prevailing Central Time)**.

12. If no Qualified Bid other than any Stalking Horse Bid is submitted on or before the Bid Deadline, the Debtors will not hold an Auction, will file a notice of cancellation of Auction by no later than **September 10, 2024 at 10:00 a.m. (prevailing Central Time)**, and will request at the Sale Hearing that this Court approve the Stalking Horse APA.

13. If at least two Qualified Bids are received by the Bid Deadline with regard to any particular Assets, the Debtors will conduct the Auction. The Auction will take place on **September 11, 2024, starting at 10:00 a.m. (prevailing Central Time)** at the offices of Sidley Austin, LLP,

and, if determined by the Debtors to be necessary or convenient, via teleconference and/or videoconference. Professionals and principals for the Debtors, each Qualified Bidder (including, its representative(s), if any), each of the Consultation Parties, the U.S. Trustee, Computershare Trust Company, National Association, in its capacity as indenture trustee (the “Securitization Trustee”) and any other parties in interest who inform the Debtors of their intent to attend the Auction by no later than two (2) business days prior to the Auction shall be permitted to attend and observe the Auction.

14. Each Qualified Bidder participating at the Auction will be required to confirm in writing, and on the record at the Auction, that (a) it has not engaged in any collusion with respect to the Bidding Process, and (b) its Qualified Bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder.

15. Following the Auction, the Debtors will determine, in consultation with the Consultation Parties, which Qualifying Bid is the highest or otherwise best Bid for the Assets or subsets thereof.

16. Within one business day following the conclusion of an Auction, the Debtors shall file and serve a notice of Successful Bidder and Next-Highest Bidder identifying the Asset or Assets being sold and including the asset purchase agreements relating to the same.

17. Objections related to approval of the Sale, conduct at the Auction, the identity of the Successful Bidder, cure amounts, and adequate assurance of future performance by the Successful Bidder must be in writing, state the basis of such objection with specificity, and be filed with this Court and served so as to be received by the Objection Notice Parties on or before **September 19, 2024, at 4:00 p.m. (prevailing Central Time)**; provided that, if the Bid Deadline

or Auction are modified consistent with Paragraph 5 of this Order, this date shall also be modified in consultation with the Consultation Parties.

18. The Court shall convene the Sale Hearing on **October 1, 2024**, at such time as the Court may have available, or as soon thereafter as counsel and interested parties may be heard, at which time the Court will consider approval of the Sale to the Successful Bidder(s) or Next-Highest Bidder(s) and the entry of the Sale Order. At the Sale Hearing, the Debtors will seek the entry of the Sale Order approving and authorizing the Sale to the Successful Bidder(s) or Next-Highest Bidder(s). Notwithstanding the foregoing, approval of the assumption and assignment of any contract or leases to the Next-Highest Bidder shall not be considered or approved at the Sale Hearing, nor shall affected landlords or counterparties be required to object to assumption and assignment of any contract or lease by the Next-Highest Bidder prior to the Debtors' filing and service of a notice of intent to proceed with the Next-Highest Bid. Subject to consultation with the Consultation Parties, the Debtors may adjourn the Sale Hearing from time to time without further notice to creditors or other parties in interest other than by announcement of said adjournment at the Sale Hearing or in notice or agenda filed with the Court. The Debtors shall file a form of Sale Order no later than September 14, 2024.

### **III. Designation of Stalking Horse Bidder**

19. The Debtors are authorized, but not directed, in the exercise of their reasonable business judgment and in consultation with the Consultation Parties and subject to the consent (not to be unreasonably withheld) of JPMorgan Chase Bank, N.A. in its capacity as administrative agent under the Debtors' debtor-in-possession credit facility (the "DIP Agent"), to (a) designate a Stalking Horse Bidder, (b) enter into a Stalking Horse APA in accordance with the Bidding Procedures, and (c) agree to any breakup fee and/or expense reimbursement (the "Bid



Protections”) subject to further Court approval, in each case at any time prior to the Auction and in accordance with the Bidding Procedures.

20. In the event that the Debtors designate a Stalking Horse Bidder and enter into a Stalking Horse APA, the Debtors shall file a supplement to the Motion (the “Stalking Horse Supplement”) seeking approval of any Bid Protections sought thereunder, and serve the Stalking Horse Supplement by email, where available, or otherwise by first class mail, with no less than three (3) business days’ notice of the objection deadline (the “Stalking Horse Objection Deadline”) on the Stalking Horse Notice Parties, with no further notice being required. The Stalking Horse Supplement shall (a) set forth the identity of the Stalking Horse Bidder (and if the Stalking Horse Bidder is a newly-formed entity, then the Stalking Horse Bidder’s parent company or sponsor); (b) set forth the amount of the Stalking Horse Bid and what portion (if any) is cash; (c) state whether the Stalking Horse Bidder has any connection to the Debtors other than those that arise from the Stalking Horse Bid; (d) specify any proposed Bid Protections; (e) attach the Stalking Horse APA, including all exhibits, schedules or attachments thereto; and (f) set forth the deadline to object to the Bid Protections. The Stalking Horse Supplement shall also include any evidence the Debtors would like the Court to consider in connection with any request to approve any breakup fee and/or expense reimbursement and/or any other Bid Protections as an administrative expense under section 503(b) of the Bankruptcy Code.

21. Objections to the Bid Protections shall (a) be in writing, (b) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (c) state, with specificity, the legal and factual bases thereof, and (d) be filed with the Court and served on the Stalking Horse Notice Parties within three (3) business days after the service of the Stalking Horse Supplement.

#### IV. Notice Procedures

22. The form of Sale Notice is approved.

23. As soon as practicable following the entry of this Order, the Debtors shall serve the Sale Notice by email, if available, or otherwise by first class mail upon the Sale Notice Parties; provided that, the Debtors need not serve the Sale Notice on any party for whom the Debtors are unable to obtain, after reasonable diligence, an email or physical address as of the entry of the Bidding Procedures Order; provided, further that, the Debtors shall not be obligated to provide supplemental service of the Sale Notice with respect to any Sale Notice that is returned to the Debtors as undeliverable so long as the Debtors have confirmed that any such Sale Notice was sent to the applicable email or physical address on file in the Debtors' books and records and no other email or physical address could be obtained after reasonable diligence.

24. In addition, the Debtors shall publish the Sale Notice once in each of (a) the *Houston Chronicle* and (b) the national edition of *The New York Times* or another publication with similar national circulation as soon as practicable after entry of this Order and post the Stalking Horse Supplement, the Sale Notice, and this Order on the website of the Debtors' claims and noticing agent: <https://dm.epiq11.com/conns>. Publication of the Sale Notice as described in this Order conforms to the requirements of Bankruptcy Rules 2002(l) and 9008, and is reasonably calculated to provide notice to any affected party, including any Potential Bidder(s), and to afford the affected party the opportunity to exercise any rights affected by the Motion and the relief granted by this Order.

25. Service of the Sale Notice as described above shall be good and sufficient notice of the Sale.

**V. Assumption and Assignment Procedures**

26. The Assumption and Assignment Procedures, as detailed in the Motion and incorporated herein by reference, are approved.

27. The form of Assumption and Assignment Notice is approved.

28. The Debtors shall file the Assumption and Assignment Notice, substantially in the form attached as **Exhibit 3** to this Order, on or prior to **August 30, 2024** (the “Assumption and Assignment Notice Deadline”). The Assumption and Assignment Notice shall include a schedule of cure obligations (the “Cure Schedule”) for the Assumed Contracts, and the Debtors shall serve such Assumption and Assignment Notice on each of the non-Debtor parties listed therein, and their counsel of record, if known, by email, where available, or otherwise by first class mail at the notice address in the applicable lease or contract on the date the Assumption and Assignment Notice is filed with the Court. The Cure Schedule will include a description of each Assumed Contract potentially to be assumed and assigned by a potential buyer and the amount, if any, necessary to cure, or compensate the non-Debtor parties for, any defaults under such agreements pursuant to section 365 of the Bankruptcy Code (the “Cure Costs”).

29. Objections to (a) the Cure Costs set forth in the Cure Schedule or (b) the assumption and assignment of any Assumed Contracts identified in the Cure Schedule must be in writing, state the basis of such objection with specificity, be filed with the Court, and be served on the Objection Notice Parties no later than **September 19, 2024 at 4:00 p.m. (prevailing Central Time)**.

30. If, after the Assumption and Assignment Notice Deadline but prior to the Sale Hearing, additional executory contracts or unexpired leases of the Debtors are determined to be potential contracts to be assumed and assigned in connection with the Sale, or the Debtors seek to modify any previously stated Cure Amount associated with an Assumed Contract, as soon as

practicable thereafter, the Debtors shall file with the Court and serve on the applicable counterparties a supplemental or amended Assumption and Assignment Notice; provided, however, the Debtors may not add an executory contract or unexpired lease to the Assumption and Assignment Notice if such executory contract or unexpired lease has been previously rejected by the Debtors by order of the Court. Each supplemental or amended Assumption and Assignment Notice will include the same information with respect to listed Assumed Contracts as was included in the original Assumption and Assignment Notice, and such counterparties shall file any objection to the Cure Amount or the assumption and assignment of the Assumed Contract by the date that is fourteen (14) calendar days from the date of service of the supplemental or amended Assumption and Assignment Notice.

31. The Debtors shall provide adequate assurance information with respect to the Successful Bidder, and the Next-Highest Bidder to the Committee, to the Securitization Trustee, as applicable, and to those counterparties who request it from the Debtors (Attn: Jeri Leigh Miller [jeri.miller@sidley.com](mailto:jeri.miller@sidley.com) and Chelsea McManus [cmcmanus@sidley.com](mailto:cmcmanus@sidley.com)) by no later than one (1) business day following the conclusion of the Auction.

32. Unless a non-Debtor party to an Assumed Contract has timely and properly filed and served an objection to the Cure Costs or the assumption and assignment of its Assumed Contract, such non-Debtor counterparty shall (a) be forever barred from objecting to the Cure Costs and from asserting any additional cure or other amounts with respect to the Assumed Contract, and the Debtors and the Successful Bidder shall be entitled to rely solely upon the Cure Costs set forth in the Cure Schedule; (b) be deemed to have consented to the assumption and assignment of such Assumed Contract; and (c) be forever barred, estopped, and permanently enjoined from asserting or claiming against the Debtor, the Successful Bidder or their respective property that any additional

amounts are due or other defaults exist, that conditions to assignment must be satisfied under such Assumed Contract or that there is any objection or defense to the assumption and assignment of such Assumed Contract. In addition, the Cure Costs set forth in the Cure Schedule shall be binding upon the non-Debtor parties to the Assumed Contracts for all purposes in these Chapter 11 Cases and will constitute a final determination of the Cure Costs required to be paid by the Debtors in connection with the assumption and assignment of the Assumed Contracts.

33. If a non-Debtor counterparty to an Assumed Contract timely and properly files an objection asserting a cure amount higher or different than the proposed Cure Costs (the “Disputed Cure Costs”), then (a) to the extent that the parties are able to consensually resolve the Disputed Cure Costs, the Cure Costs shall be as agreed between the parties, or (b) to the extent the parties are unable to consensually resolve the dispute, then such objection will be adjudicated at the Sale Hearing or at such other date and time as may be determined by the Debtor or fixed by the Court with no less than seven (7) days’ notice to the affected counterparties. An adjourned dispute over Disputed Cure Costs may be resolved after the closing of a Sale in the Debtors’ discretion.

34. The inclusion of an Assumed Contract on the Assumption and Assignment Notice will not (a) obligate the Debtors to assume any contract listed thereon nor the Successful Bidder to take assignment of such Assumed Contract, or (b) constitute any admission or agreement of the Debtors that such Assumed Contract is an executory contract.

35. At the Sale Hearing, the Debtors will seek Court approval of the assumption and assignment to the Successful Bidder of those Assumed Contracts that have been selected by the Successful Bidder to be assumed and assigned. The Debtors and their estates reserve any and all rights with respect to any Assumed Contracts that are not ultimately selected.

36. Prior to the closing of the Sale, the Debtors may amend the Assumption and Assignment Notice and may make a determination not to assume certain Assumed Contracts. In the event the Debtors file an amended Assumption and Assignment Notice adding executory contracts or unexpired leases or modifying any Cure Costs on or after the Sale Hearing, the counterparties to such Assumed Contracts shall have fourteen (14) days from the filing and service of any such amendment to object.

#### **VI. Additional Provisions.**

37. Any substantial contribution claims by any bidder are deemed waived, to the extent based on such bidder's submission of a bid in accordance with the Bidding Procedures.

38. Notwithstanding anything to the contrary herein, the entry of this Order and the relief granted hereby is without prejudice to the rights of any party to object or respond to any proposed Sale or any other document or instrument contemplated by any of the foregoing, and all such rights are reserved and preserved in all respects.

39. Nothing in this Order or the Motion shall amend, alter, or otherwise modify the terms of any order entered approving the Debtors' debtor-in-possession financing (the "Final DIP Order") as it relates to the Texas Tax Reserve (as may be defined in the Final DIP Order) established as adequate protection for the claims asserted by the Texas Taxing Authorities (as may be defined in the Final DIP Order).

40. The Debtors shall, in furtherance of the activities authorized under the *Amended Order (I) Authorizing the Debtors to Continue Servicing and Administration Activities in the Ordinary Course of Business and (II) Granting Related Relief* [Docket No. 198] (the "Amended Servicing Order"), keep the Securitization Trustee informed on a weekly basis regarding any material disruptions to their Contract Servicing Activities (as defined in the Amended Servicing

Order), including collections, and to develop a transition plan in good faith regarding the assumption by a back-up servicer or successor servicer with respect to the Debtors' Contract Servicing Activities.

41. Any asset owned by the Debtors' bankruptcy remote special purpose entities, including Conn's Receivables Funding 2022-A, LLC, Conn's Receivables Funding 2023-A, LLC, Conn's Receivables Funding 2024-A, LLC, Conn's Receivables 2022-A Trust, Conn's Receivables 2023-A Trust, or Conn's Receivables 2024-A Trust shall be excluded from and not be subject to the Sale.

42. Notwithstanding anything to the contrary contained in the Motion or this Order, any payment to be made, obligation incurred, or relief or authorization granted hereunder shall not be inconsistent with, and shall be subject to and in compliance with, the requirements imposed on the Debtors under the terms of the interim and Final DIP Orders, including compliance with any approved budget or cash flow forecast in connection therewith (and any permitted variances thereto) and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way any terms, provisions, requirements, or restrictions of the interim or Final DIP Order or any approved budget set forth therein.

43. Nothing contained herein or any action taken pursuant to relief requested is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or interest under applicable law or nonbankruptcy law; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (e) a request for or granting of approval for assumption of any agreement, contract, program, policy, or lease under

section 365 of the Bankruptcy Code; or (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' or any party in interest's rights to subsequently dispute such claim.


44. Notice of the Motion, as provided therein, shall be deemed good and sufficient notice of such Motion under the circumstances and the requirements of Bankruptcy Rule 6004(a) and the Complex Case Procedures as satisfied by such notice.

45. In the event there is any conflict between this Order and the Bidding Procedures, the terms and conditions of the Bidding Procedures shall control and govern in all respects.

46. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.

47. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: August 20, 2024

  
Alfredo R Pérez  
United States Bankruptcy Judge



**Exhibit 1**

**The Bidding Procedures**

## **BIDDING PROCEDURES**

On July 23, 2024, Conn's, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors"), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas (the "Court"). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On August [●], 2024, the Court entered the *Order (A) Approving Certain Bidding Procedures and the Form and Manner of Notice Thereof, (B) Scheduling an Auction and a Hearing on the Approval of the Sale of All or Substantially All of the Debtors' Assets, (C) Establishing Certain Assumption and Assignment Procedures and Approving the Manner of Notice Thereof, and (D) Granting Related Relief* [Docket No. ●] (the "Bidding Procedures Order"),<sup>1</sup> approving, among other things, the bidding procedures to be used in connection with the sale of sales (collectively, the "Sale") of all or substantially all of the Debtors' assets, or any portion thereof (the "Assets" and such procedures, the "Bidding Procedures").

The Bidding Procedures Order also authorized, among other things, the right of the Debtors to, at any time prior to the Auction and in consultation with the Consultation Parties, designate a stalking horse bidder (the "Stalking Horse Bidder"), whose Qualified Bid (as defined below) shall serve as the stalking horse bid (the "Stalking Horse Bid") for the Assets, subject to higher and better bids in accordance with the terms and conditions of these Bidding Procedures.

**Any party interested in proposing a potential transaction should contact the Debtors' investment banker, Houlihan Lokey, Inc., if they have any questions or need additional information:**

**Saul Burian (sburian@hl.com)  
David Salemi (dsalemi@hl.com)  
Daniel Oudiz (doudiz@hl.com)**

### **I. Description of Assets to Be Sold.**

The Debtors' Assets include but are not limited to the following: (1) portfolio of outstanding Conn's consumer installment loans, (2) portfolio of legacy WSB revolving accounts, (3) non-performing consumer loans, (4) the Debtors' credit originations and servicing platforms, and (5) other assets, including but not limited to intellectual property, owned real estate parcels, the Debtors' network of real estate leases, equity (residual accounts receivable rights) in the

<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the *Debtors' Motion For Entry of (I) an Order (A) Approving Certain Bidding Procedures and the Form and Manner of Notice Thereof, (B) Scheduling an Auction and a Hearing on the Approval of the Sale of All or Substantially All of the Debtors' Assets, (C) Establishing Certain Assumption and Assignment Procedures and Approving the Manner of Notice Thereof, and (D) Granting Related Relief; and (II) an Order (A) Authorizing the Sale of All or Substantially All of the Debtors' Assets Free and Clear of All Encumbrance, (B) Approving the Assumption and Assignment of the Assumed Contracts, and (C) Granting Related Relief* [Docket No. 121] (the "Bidding Procedures Motion").

Debtors' bankruptcy remote special purpose entities, and inventory. In all, the Assets add up to a collection of unique business opportunities that can be evaluated individually or packaged together. The Debtors' whole business may also be sold as a going concern in the event such a sale would generate the highest and best return for the estates.

The Debtors intend to accept bids on all or a subset of the Assets available, as well as on the whole business as a going concern. Bidders will be asked to provide in their Bid both (a) the Asset(s) being bid on, and (b) the portion of the Bid consideration attributable to each of the asset tranches listed.

## II. Key Dates.

The Bidding Procedures are designed to provide interested parties with the opportunity to qualify for, and participate in a potential Auction to be conducted by the Debtors and to submit competing bids (each, a "Bid") for the sale of some or all of the Assets. In accordance with the Bidding Procedures, the Debtors will (a) coordinate with each Potential Bidder (as defined below) regarding the conduct of their respective due diligence, (b) evaluate bids from Potential Bidders, in consultation with the Consultation Parties, (c) negotiate any Bid made, and (d) make such other determinations as are provided for in these Bidding Procedures.

The key dates for the sale process are as follows:

<i>Transaction Milestones</i>	
Date and Time (all in prevailing Central Time)	Event or Deadline
August 20, 2024, at 1:00 p.m. (CT)	Hearing on Approval of the Bidding Procedures
August 30, 2024	Deadline to File Assumption and Assignment Notice
September 6, 2024 at 4:00 p.m. (CT)	Bid Deadline
September 10, 2024 at 10:00 a.m. (CT)	Determination of Qualified Bids
September 11, 2024 at 10:00 a.m. (CT)	Auction
Within 1 business day of conclusion of Auction	Deadline to Serve Post-Auction Notice
September 19, 2024 at 4:00 p.m. (CT)	Deadline to File Objection to Sale / Deadline to File Contract Objections
September 30, 2024	Deadline to File Reply to Objections
October 1, 2024, subject to Court availability	Sale Hearing

The Debtors may extend the Bid Deadline by up to two weeks upon request from the Official Committee of Unsecured Creditors (the "Committee") and with the consent of the DIP Agent (not to be unreasonably withheld) in accordance with the Interim and Final DIP Orders; provided, the Committee may seek an expedited hearing from the Court if the Debtors do not extend the Bid Deadline following request from the Committee

The Debtors, in consultation with the Consultation Parties, may extend any of the deadlines in these Bidding Procedures, including any Auction that may take place, subject to the terms of the Bidding Procedures Order.

### III. Designation of a Stalking Horse Bidder.

The Debtors may, at any time prior to the Auction, pursuant to these Bidding Procedures in consultation with the Consultation Parties and with the consent (not to be unreasonably withheld) of the DIP Agent, designate a Stalking Horse Bidder. Any asset purchase agreement or similar agreement memorializing the proposed transaction set forth in the Stalking Horse Bid (the “Stalking Horse APA”) will be binding on the Stalking Horse Bidder and set the floor for all Qualified Bids, subject to higher or otherwise better Qualified Bids. If the Stalking Horse Bid is not selected as the Successful Bid, the Stalking Horse Bidder may still serve as the Next-Highest Bidder, if its bid represents (in the view of the Debtors in consultation with the Consultation Parties) the second-highest or otherwise second-best bid after the Auction. Notwithstanding any of the foregoing, the Debtors are not obligated to select a Stalking Horse Bidder and may proceed to the Auction without one.

In the event that the Debtors, in consultation with the Consultation Parties and with the consent of the DIP Agent, designate a Stalking Horse Bidder and enter into a Stalking Horse Agreement, the Debtors shall file a supplement to the Bidding Procedures Motion and serve such supplement pursuant to the requirements in the Bidding Procedures Order. The supplement designating the Stalking Horse Bidder shall set forth: (a) an identification of the Stalking Horse Bidder (and if the Stalking Horse Bidder is a newly formed entity, then the Stalking Horse Bidder’s parent company or sponsor); (b) the amount of the Stalking Horse Bid and what portion (if any) is cash; (c) whether the Stalking Horse Bidder has any connection to the Debtors other than those that arise from the Stalking Horse Bid; (d) any proposed Bid Protections; (e) the Stalking Horse APA, including all exhibits, schedules or attachments thereto; and (f) the deadline to object to any of the proposed Bid Protections described therein. The supplement shall also include any evidence the Debtors would like the Court to consider in connection with any request to approve any Bidding Protections as an administrative expense under section 503(b) of the Bankruptcy Code.

The Stalking Horse Bidder shall provide adequate assurance information to the Debtors, as contemplated in Section IX.c herein, in connection with their Stalking Horse Bid. If the Stalking Horse Bidder is named the Successful Bidder or the Next-Highest Bidder, the Debtors shall provide such adequate assurance information to the Committee and to those counterparties who request it from the Debtors (Attn: Jeri Leigh Miller jeri.miller@sidley.com and Chelsea McManus cmcmanus@sidley.com) by no later than one (1) business day following the conclusion of the Auction.

### IV. Potential Bid Requirements.

To participate in the bidding process described herein (the “Bidding Process”) or otherwise be considered for any purpose hereunder, a person or entity (other than a Stalking Horse Bidder) interested in purchasing the Assets must deliver or have previously delivered to the Debtors the following preliminary documentation (collectively, the “Preliminary Bid Documents”):

- a. an executed confidentiality agreement in form and substance reasonably satisfactory to the Debtors (a “Confidentiality Agreement”);

- b. sufficient information, as reasonably determined by the Debtors, in consultation with the Consultation Parties, that the Potential Bidder has or may reasonably obtain the financial capacity to close the Sale (including current audited or verified financial statements of, or verified financial commitments obtained by, the Potential Bidder (or, if the Potential Bidder is an entity formed for the purpose of acquiring the property to be sold, the party that will bear liability for a breach) as well as an overview of any recent transactions), the adequacy of which must be acceptable to the Debtors;
- c. sufficient information, as reasonably determined by the Debtors, in consultation with the Consultation Parties, that the Potential Bidder has the ability to receive any and all necessary governmental, licensing, regulatory, and other approvals required;
- d. identity of the Potential Bidder, including its legal name, jurisdiction and form of organization, and details regarding the ownership and capital structure of the Potential Bidder, including details related to the Potential Bidder's beneficial owners, ultimate beneficial owners, and controlling entities and whether the Potential Bidder is an insider or affiliate of any of the Debtors, and any of the principals, corporate officers, or other representatives that are authorized to appear for and act on behalf of the Potential Bidder with respect to the contemplated Sale; and description of the nature and extent of any due diligence the Potential Bidder wishes to conduct; and
- e. a statement that the Potential Bidder intends to access the Data Room (as defined below) for a purpose consistent with the Bidding Procedures.

Promptly after a party delivers the Preliminary Bid Documents, the Debtors shall share such documents with the Consultation Parties, and in consultation with the Consultation Parties, shall determine and notify such party as to whether the party has submitted acceptable Preliminary Bid Documents. Only those parties that have submitted acceptable Preliminary Bid Documents (each, a "Potential Bidder") to the reasonable satisfaction of the Debtors and their advisors, in consultation with the Consultation Parties, may submit bids to purchase the Assets.

## **V. Due Diligence.**

Only Potential Bidders, including the Stalking Horse Bidder, if any, and the Consultation Parties shall be eligible to receive due diligence information and access to the Debtors' electronic data room (the "Data Room") and to additional non-public information regarding the Debtors as may be reasonably requested by the Potential Bidder that the Debtors, in their business judgment, determine to be reasonable, available, and appropriate under the circumstances. Any Stalking Horse Bidder shall be provided access to the Data Room. The Debtors will provide to each Potential Bidder reasonable due diligence information, as reasonably requested by such Potential Bidder in writing, as soon as reasonably practicable after such request, and the Debtors shall post substantially all written due diligence provided to any Potential Bidder to the Debtors' Data Room. The Debtors may designate one or more representatives to coordinate all reasonable requests for additional information and due diligence from Potential Bidders. Potential Bidders will not, directly or indirectly, contact or initiate or engage in discussions in respect of matters relating to the Debtors

or a potential Sale with any customer, supplier, or other contractual counterparty of the Debtors without the prior written consent of the Debtors. The due diligence period will end on the Bid Deadline and subsequent to the Bid Deadline the Debtors shall have no obligation to furnish any due diligence information. The Debtors shall keep the Consultation Parties reasonably informed regarding diligence requests received and any determination by the Debtors, if any, to withhold diligence requested by a Potential Bidder.

In connection with the provision of due diligence information to Potential Bidders, the Debtors shall not furnish any confidential information relating to the Debtors or a potential Sale to any person except a Potential Bidder or such Potential Bidder's duly authorized representatives to the extent provided in an applicable Confidentiality Agreement (an "Authorized Representative"). Neither the Debtors nor any of their representatives shall be obligated to furnish any information of any kind whatsoever relating to the Debtors, the Assets or any proposed Sale to any person or entity who is not a Potential Bidder or such Potential Bidder's applicable Authorized Representative, other than with respect to the Consultation Parties as set forth herein.

The Debtors and their advisors shall coordinate all reasonable requests for additional information and due diligence access from Potential Bidders; provided that, the Debtors may decline to provide such information to Potential Bidders who, in the Debtors' reasonable business judgment (in consultation with the Consultation Parties) have not established, or who have raised doubt, that such Potential Bidders intend in good faith to, or have the capacity to, consummate the Sale. For any bidder who is a competitor or customer of the Debtors or is affiliated with any competitors or customers of the Debtors, the Debtors reserve the right to withhold or modify any diligence materials that the Debtors determine are business-sensitive or otherwise inappropriate for disclosure to such bidder. To the extent the Debtors withhold or modify any diligence materials for the reasons stated herein, the Debtors will promptly inform the Consultation Parties of their decision and the reason(s) for doing so.

The Debtors make no representation or warranty as to the information provided through this due diligence process or otherwise, including the documents in the Data Room, except as set forth in any executed definitive documents for the Sale. Each Potential Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making a bid; that it has relied solely upon its own independent review, investigation, and/or inspection of any documents and the Assets 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 therewith, except as expressly stated in these Bidding Procedures or such Potential Bidder's Confidentiality Agreement.

Each Potential Bidder (including any Qualified Bidder (as defined below)) shall comply with all reasonable requests for additional information and due diligence access requested by the Debtors or their advisors and the Consultation Parties and their respective advisors regarding the ability of such Potential Bidder (including any Qualified Bidder) to consummate its contemplated Sale. Failure by a Potential Bidder (including any Qualified Bidder) to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtors (in

consultation with the Consultation Parties) to determine that such bidder is no longer a Potential Bidder (including any Qualified Bidder) or that a bid made by such bidder is not a Qualified Bid.

Information Requests: the Debtors have designated Houlihan Lokey, Inc. (“Houlihan”) to coordinate the response to all reasonable requests for additional information and due diligence with respect to the Assets and the Sale(s). Contact information for Houlihan is as follows: 245 Park Avenue, 20th Fl., New York, New York 10167, Attn: Saul Burian (sburian@hl.com), David Salemi (dsalemi@hl.com), and Daniel Oudiz (doudiz@hl.com). Houlihan will serve as the lead point of contact for all potential purchases interested in a Sale, and any such purchaser will need to contact Houlihan to ensure participation in the marketing and sale process described herein.

## **VI. No Communication Among Bidders.**

There shall be no communications regarding potential Bids, a potential Sale, or another potential transaction between or among any bidders, including any Stalking Horse Bidder, unless the Debtors have previously authorized such communication in writing (email from the Debtors’ counsel being sufficient). The Debtors reserve the right, in their reasonable business judgment and after consultation with the Consultation Parties, to disqualify any bidder that the Debtors believe, in their reasonable judgment, has communicated with another bidder in violation of these Bidding Procedures.

The joining of Bids between Potential Bidders or Potential Bidders is permitted; provided that, if any Potential Bidders or Potential Bidders are interested in joining Bids, the Debtors’ advisors (in consultation with the Consultation Parties) will facilitate the communications between such parties and the potential joining of Bids. In the event Potential Bidders join Bids, the Debtors shall require a communication in writing (email being sufficient) stating that, absent such paired Bid, the Potential Bidders would not intend to submit a Bid for the Assets.

## **VII. Submissions to the Debtors; Consultation Parties**

All submissions to the Debtors required or permitted to be made under the Bidding Procedures must be directed to each of the following persons or entities unless otherwise provided:

- a. Debtors: Conn’s Inc., 2445 Technology Forest Blvd., Suite 800, The Woodlands, TX 77381, Attn: Norman L. Miller;
- b. Debtors’ Counsel: Sidley Austin, LLP, 1000 Louisiana Street, Suite 5900, Houston, TX 77002, Attn: Duston McFaul (dmcfaul@sidley.com), Jackson Garvey (jgarvey@sidley.com), Jeri Leigh Miller (jeri.miller@sidley.com), Maegan Quejada (mquejada@sidley.com), and Michael Sabino (msabino@sidley.com);
- c. Debtors’ Investment Banker: Houlihan Lokey, Inc., 245 Park Avenue, 20th Fl., New York, New York 10167, Attn: Saul Burian (sburian@hl.com), David Salemi (dsalemi@hl.com), and Daniel Oudiz (doudiz@hl.com); and
- d. Debtors’ Financial Advisor: Berkeley Research Group, 99 High Street, Suite 2700, Boston, MA 02110, Attn: Mark Renzi (mrenzi@thinkbrg.com) and George Pantelis (gpantelis@thinkbrg.com).



“Consultation Parties,” as used in these Bidding Procedures shall mean (a) the Official Committee of Unsecured Creditors appointed in these Chapter 11 Cases (the “Committee”) and such Committee’s counsel, Pachulski Stang Ziehl & Jones LLP, 780 Third Avenue, Suite 34, New York, New York 10017, Attn: Bradford J. Sandler, Esq. (bsandler@pszjlaw.com), Robert J. Feinstein, Esq. (rfeinstein@pszjlaw.com), and Paul J. Labov, Esq. (plabov@pszjlaw.com), (b) the lenders under that certain senior secured superpriority, priming debtor-in-possession credit facility (the “DIP Lenders”) and counsel thereto, (c) BRF Finance Co., LLC and counsel thereto, (d) Stephens Investment Holdings LLC and counsel thereto, and (e) any other party that the Debtors deem appropriate; provided that, notwithstanding anything to the contrary contained in the Motion or these Bidding Procedures, the Debtors shall not consult with a Consultation Party (or its advisors) unless and until such Consultation Party, or in the case of the Committee, any Committee member through Committee counsel, confirms in writing to the Debtors that they will not be acting as a Potential Bidder for the Assets.

In the event that any Consultation Party or an affiliate of the foregoing submits a bid that is a Qualified Bid (as defined below), such bidding party or its affiliates shall no longer be considered a Consultation Party under these Bidding Procedures until such time such party withdraws its Bid; provided that, such bidding party will have the same rights as any other Qualified Bidder set forth herein.

#### **VIII. Bid Deadline.**

Any Bid must be transmitted via email (in PDF or similar format) to the Debtors and their advisors specified herein so as to be actually received no later than **4:00 p.m. (prevailing Central Time) on or before September 6, 2024** (the “Bid Deadline”). The Debtors may extend the Bid Deadline for any reason whatsoever in consultation with the Consultation Parties.

#### **IX. Bid Requirements.**

To participate in the Auction, a Potential Bidder (other than the Stalking Horse Bidder, if any) must deliver to the Debtors and their advisors an irrevocable offer for the purchase of the Assets that must meet the following criteria: (collectively, the “Bid Requirements”):

- a. Each Bid must be accompanied by a letter or email:
  - (i) fully disclosing the identity of the Potential Bidder and providing the contact information of the specific person(s) whom the Debtors or their advisors should contact (including any equity holder or other financial backer if the Potential Bidder is an entity formed for the purpose of consummating the proposed Sale) in the event that the Debtors have any questions or wishes to discuss the Bid submitted by the Potential Bidder;
  - (ii) setting forth the purchase price to be paid by such Potential Bidder and forms of consideration the Potential Bidder intends to use to pay such purchase price;
  - (iii) stating with specificity the Assets (including any specific executory contracts and unexpired leases) such Potential Bidder wishes to bid on and



the liabilities and obligations (including any applicable cure costs) to be assumed by the Potential Bidder in the Sale;

- (iv) allocating the portion of the Bid consideration attributable to each category of Assets being bid on, to the extent multiple Asset categories are contained in the Bid;
  - (v) providing, other than as may be exclusively applicable to the Stalking Horse Bidder, if designated, that the Bid is not subject to any bidding fee, break-up fee, termination fee, transaction fee, expense reimbursement or any similar type of reimbursement, and including an express waiver of any substantial contribution administrative expense claim under Section 503(b) of the Bankruptcy Code related to bidding for the Assets; provided that, in the event a Stalking Horse Bidder is designated, all bids must provide consideration to the Debtors of at least the sum of (1) the Stalking Horse Bid, (2) the amount of any Bid Protections, and (3) a reasonable minimum overbid amount equal to or greater than \$250,000 or such other amount determined by the Debtors in consultation with the Consultation Parties (“Incremental Overbid”) over the Starting Bid or the Leading Bid;
  - (vi) agreeing that the Potential Bidder’s offer is binding, unconditional, and irrevocable until three (3) business days after the closing of the Sale;
  - (vii) containing a commitment to close the contemplated transaction(s) by a Closing Date (as defined below) of no later than October 15, 2024;
  - (viii) providing that such Bid is not subject to contingencies of any kind, including, without limitation, contingencies related to financing, internal approval, or due diligence;
  - (ix) containing an acknowledgment that the Potential Bidder has had an opportunity to conduct any and all due diligence regarding the Assets, has relied solely upon its own independent review and investigation and/or inspection of any documents and any other information in making the Bid;
  - (x) providing that the Potential Bidder agrees to serve as a backup bidder (the “Next-Highest Bidder”) if the Potential Bidder’s Qualified Bid (as defined below) is the next highest or best bid after the Successful Bid (as defined below) (the “Next-Highest Bid”) with respect to the relevant Assets through the Closing Date (as defined below); and
- b. be accompanied by (i) an executed purchase agreement in form and substance reasonably satisfactory to the Debtors (after consulting with the Consultation Parties) (a “Qualified Bid Purchase Agreement”), and (ii) if a Stalking Horse APA has been entered into, or if a form purchase agreement is provided, a redline of the executed Qualified Bid Purchase Agreement to reflect any proposed amendments

and modifications to the Stalking Horse APA or the form purchase agreement, as applicable, and the applicable schedules and exhibits;

- c. be accompanied by adequate assurance of future performance information (the “Adequate Assurance Information”), which may include (i) information demonstrating (in the Debtors’ reasonable business judgment after consulting with the Consultation Parties) that the Potential Bidder has the financial capacity to consummate the proposed Sale; (ii) evidence that the Potential Bidder has obtained authorization or approval from its board of directors (or comparable governing body) with respect to the submission of its Bid; (iii) evidence demonstrating that the Potential Bidder can demonstrate adequate assurance of its future performance under assumed contracts and leases, which may include (a) audited and unaudited financial statements for the past three (3) years, including all supplements or amendments thereto; (b) tax returns; (c) bank account statements; (d) a description of the proposed business to be conducted at the premises; (e) the specific name of the proposed assignee/tenant, if not the prospective purchaser, and the proposed name under which the assignee intends to operate the store if not a current trade-name of the Debtors; (f) the potential assignee’s intended use for the space if different from the present retail operation; (g) cash flow projections for the proposed assignee, (h) the proposed assignee’s most recent business plan, (i) cash flow projections for the lease(s) subject to the assignment request, and financial projections, calculations and/or pro-formas prepared in contemplation of purchasing the lease(s), (j) documents and other evidence of the potential assignee’s retail experience and experience operating stores in a shopping center; (k) a contact person for the proposed assignee that Landlords may directly contact in connection with the adequate assurance of future performance; and/or (l) guarantors, if any, associated with the lease(s) subject to the assignment request; (iv) in the case of a Bid for all or part of the Debtors’ credit originations and/or servicing platforms (including any assets thereof or contracts related thereto), information evidencing such Potential Bidder’s qualifications to serve as servicer, including, but not limited to, such Potential Bidder’s net worth and experience serving as servicer for the type of receivables comparable to the receivables serviced by the Debtors (the “Servicer Adequate Assurance Information”); and (v) such additional information regarding the Potential Bidder as the Potential Bidder may elect to include. Should the prospective bidder be a newly formed entity (a “Newco”), written evidence of adequate assurance of future performance should also include when such Newco was formed, how it will be financed, together with evidence of any financial commitments, and identify what credit enhancements, if any, will be available to guarantee the obligations under the leases. By submitting a Bid, Potential Bidders agree that the Debtor may disseminate their Adequate Assurance Information to (i) affected counterparties to any contracts or leases potentially being assumed and assigned in connection with the Sale; (ii) the Securitization Trustee with respect to any Bid for all or a portion of the Debtors’ credit originations and/or servicing platforms (including any assets thereof or contracts related thereto); and (iii) the Consultation Parties in the event that the Debtors determine such bid to be a Qualified Bid (as defined below); and

- d. be accompanied by (i) a deposit in the form of a certified check or wire transfer, payable to the order of the Debtors, in the amount of five percent (5%) of the cash consideration of the Bid, which funds will be deposited, prior to the Bid Deadline, into an escrow account to be identified and established by the Debtor (a “Good Faith Deposit”), and (ii) written evidence, documented to the Debtors’ satisfaction, after consultation with the Consultation Parties, that demonstrates the Potential Bidder has available cash, a commitment for financing if selected as the Successful Bidder (as defined below) with respect to the relevant Assets (provided, however, that the closing shall not be contingent in any way on the Successful Bidder’s financing) and such other evidence of ability to consummate the transaction(s) as the Debtors may request, including proof that such funding commitments or other financing are not subject to any internal approvals, syndication requirements, diligence or credit committee approvals (provided further that such commitments may have covenants and conditions acceptable to the Debtors). The Debtors reserve the right to increase the Good Faith Deposit for one or more Qualified Bidders (as defined below) in its sole discretion after consulting with the Consultation Parties, including by requiring Qualified Bidders to provide a Good Faith Deposit for any non-cash consideration based on such Qualified Bidder’s estimate of the value of any such non-cash consideration. Notwithstanding the foregoing or anything contained herein to the contrary, a Good Faith Deposit shall not be required in connection with a credit bid, except to the extent necessary to satisfy the Bid Protections of any Stalking Horse Bidder.

Upon receipt of the Bid Requirements, the Debtors will promptly share each document with the Consultation Parties that have not submitted a Bid and their respective advisors. The Debtors, in consultation with those Consultation Parties that have not submitted a Bid, will review each Bid received from a Potential Bidder to determine whether it meets the requirements set forth above. A bid received from a Potential Bidder for any portion of the Assets that is determined by the Debtors, in consultation with the Consultation Parties, to meet the above requirements will be considered a “Qualified Bid” and each Potential Bidder that submits such a Qualified Bid will be considered a “Qualified Bidder.” The Debtors shall inform Qualified Bidders that their Bids have been designated as Qualified Bids no later than **September 10, 2024, at 10:00 a.m. (prevailing Central Time)**. Any Stalking Horse Bid will be deemed a Qualified Bid and the Stalking Horse Bidder will be deemed a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Potential Bidder must satisfy to be a Qualified Bidder.

By submitting a Bid, each bidder is agreeing, and shall be deemed to have agreed, to abide by and honor the terms of the Bidding Procedures and to refrain from (a) submitting a Bid after conclusion of the Auction (if any) or (b) seeking to reopen the Auction (if any) once closed. The submission of a Bid shall constitute a binding and irrevocable offer (a) for the Successful Bidder (as defined below), until consummation of the Sale, (b) for the Next-Highest Bidder, if any, as provided herein, and (c) for any bidder other than the Successful Bidder and Next-Highest Bidder, until three (3) business days after entry of an order approving the Successful Bid and (if applicable) the Next-Highest Bid for the applicable Assets (such order, a “Sale Order”), and each Bid must include a written acknowledgement and representation to such effect.

A Qualified Bid will be valued by the Debtors based upon any and all factors that the Debtors deem pertinent in its reasonable business judgment (in consultation with the Consultation Parties), including, among others, (a) the amount and nature of the consideration, including any obligations to be assumed; (b) the executory contracts and unexpired leases of the Debtors, if any, for which assumption and assignment or rejection is required, and the costs and delay associated with any litigation concerning executory contracts and unexpired leases necessitated by such bid; (c) the number, type, and nature of any changes to the Stalking Horse APA or form of asset purchase agreement, as applicable, requested by each Qualified Bidder; (d) the extent to which such modifications are likely to delay closing of the Sale and the cost to the Debtor of such modifications or delay; (e) the likelihood of the Qualified Bidder being able to close the proposed transaction (including obtaining any required regulatory approvals) and the timing thereof; (f) the net benefit to the Debtors' estates (including after taking account of the Bid Protections); (g) the tax consequences of such Qualified Bid; (h) the impact on non-insider employees and the proposed treatment of employee obligations owing to such non-insider employees; and (i) any other factors that the Debtors, in consultation with the Consultation Parties, may reasonably deem relevant.

The Debtors, in their business judgment and in consultation with the Consultation Parties, reserve the right to reject any Bid if such Bid, among other things:

- a. requires any indemnification of the Potential Bidder in any Qualified Bid Purchase Agreement submitted as part of the Bid;
- b. is not received by the Bid Deadline;
- c. does not comport with the Bid Requirements;
- d. is subject to any contingencies (including representations, warranties, covenants and timing requirements) of any kind or any other conditions precedent to such party's obligation to acquire the relevant Assets; or
- e. does not, in the Debtors' determination (after consultation with the Consultation Parties), include a fair and adequate price or the acceptance of which would not be in the best interests of the Debtors' estate or the Auction.

Any Bid rejected pursuant to the foregoing shall not be deemed to be a Qualified Bid; provided that the Debtors (in consultation with the Consultation Parties) have the right to work with the parties to any rejected Bid to cure any such defects. In the event that any Bid is so rejected, the Debtors shall cause the Good Faith Deposit of such Potential Bidder (including all accumulated interest thereon) to be refunded to it as soon as reasonably practicable, but no later than fourteen (14) business days after the Bid Deadline.

Landlords may submit bids with respect to their own leased premises ("Landlord Bids"). Landlord Bids may be submitted in the form of a lease termination agreement or an assumption and assignment agreement in lieu of a markup of the Stalking Horse APA. Landlords may include their uncontested cure amounts as consideration in their Landlord Bids. Any Landlord Bids submitted as set forth in this paragraph shall be deemed Qualified Bids, and such landlord a Qualified Bidder, with respect to bids for its own lease. Landlord Bids shall not be required to

comply with sections IX.b, IX.c, or IX.d (except with respect to the cash component of any Landlord Bid) of these Bidding Procedures.

Notwithstanding anything herein to the contrary, the Debtors (in consultation with the Consultation Parties) also reserve the right to work with (a) Potential Bidders to aggregate two or more Bids into a single consolidated Bid prior to the applicable Bid Deadline and (b) Qualified Bidders to aggregate two or more Qualified Bids into a single Qualified Bid prior to the conclusion of the Auction (if any). The Debtors (in consultation with the Consultation Parties) may accept a single Qualified Bid or multiple Bids that, if taken together in the aggregate, would otherwise meet the standards for a single Qualified Bid (in which event those multiple bidders shall be treated as a single Qualified Bidder and their Bid a single Qualified Bid for purposes of the Auction, if any). The Debtors shall consult with the Consultation Parties with respect to aggregating one or more bids.

#### **X. No Qualified Bids.**

If no Qualified Bids other than a Stalking Horse Bid are received by the Bid Deadline, then the Debtors, after consultation with the Consultation Parties, may cancel the Auction, and may decide, in the Debtors' reasonable business judgment, to designate the Stalking Horse Bid as the Successful Bid (as defined below), and pursue entry of the Sale Order approving the Sale of such Assets to the Stalking Horse Bidder pursuant to the Stalking Horse APA.

#### **XI. Auction.**

If the Debtors receive two or more Qualified Bids by the applicable Bid Deadline for the Sale of some or all of the Debtors' Assets, the Debtors may, after consultation with the Consultation Parties, conduct an Auction to determine the Successful Bidder (as defined below) or Next-Highest Bidder, as applicable for such applicable Assets. In such event, the Debtors shall, in consultation with the Consultation Parties, evaluate Qualified Bids and identify the Qualified Bid that is, in the Debtors' business judgment, the highest or otherwise best Qualified Bid or combination of Qualified Bids for purposes of constituting the opening bid at the Auction for the relevant Assets (the "Starting Bid"). The determination of which Qualified Bid constitutes the Starting Bid and which Qualified Bid constitutes the Successful Bid (as defined below) shall take into account any factors the Debtors (in consultation with the Consultation Parties) reasonably deems relevant to the value of the Qualified Bid to the Debtors' estates, including, among other things, the following: (a) the amount and nature of the consideration, including any obligations to be assumed; (b) the executory contracts and unexpired leases of the Debtors, if any, for which assumption and assignment or rejection is required, and the costs and delay associated with any litigation concerning executory contracts and unexpired leases necessitated by such bid; (c) the number, type, and nature of any changes to the Stalking Horse APA or form of asset purchase agreement, as applicable, requested by each Qualified Bidder; (d) the extent to which such modifications are likely to delay closing of the Sale and the cost to the Debtor of such modifications or delay; (e) the likelihood of the Qualified Bidder being able to close the proposed transaction (including obtaining any required regulatory approvals) and the timing thereof; (f) the net benefit to the Debtors' estates (including after taking account of the Bid Protections); (g) the tax consequences of such Qualified Bid; (h) the impact on non-insider employees and the proposed treatment of employee obligations owing to such non-insider employees; and (i) any other factors

that the Debtors, in consultation with the Consultation Parties, may reasonably deem relevant. Prior to the start of the Auction, the Debtors shall notify all Qualified Bidders, including the Stalking Horse Bidder, if any, as to which Qualified Bid is the Starting Bid for the Auction with respect to each Asset Sale.

If an Auction is held, such Auction shall take place at the offices of Sidley Austin, LLP. Professionals and principals for the Debtors, each Qualified Bidder (including, its representative(s), if any), each of the Consultation Parties, the U.S. Trustee, the Securitization Trustee, and any party in interest who notifies the Debtors of their intent to attend the Auction by no later than two (2) business days prior to the Auction shall be permitted to attend and observe the Auction. Each Qualified Bidder participating in the Auction will be required to confirm, in writing, and on the record at the Auction, that (a) it has not engaged in any collusion with respect to the Bidding Process, and (b) its Qualified Bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder.

The Auction shall be conducted in a timely fashion according to the procedures set forth below (the “Auction Procedures”).

#### Auction Procedures

- a. **The Debtors Shall Conduct the Auction.** The Debtors, with the assistance of their advisors, shall direct and preside over any Auction. At the commencement of the Auction, the Debtors, following consultation with the Consultation Parties, (1) may announce procedural and related rules governing the Auction, including time periods available to all Qualified Bidders to submit any Overbids (as defined below); and (2) shall describe the terms of the Starting Bid. Only incremental Bids that comply with the terms set forth in Section XI.B of these Bidding Procedures shall be considered “Overbids.” Overbids shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders in attendance at the Auction.

The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Starting Bid, all Overbids, and the Successful Bid (as defined below) and Next-Highest Bid, as applicable.

Each Qualified Bidder who wishes to bid at the Auction shall appear at the Auction in person and may speak or bid themselves or through duly authorized representatives. Except as otherwise permitted by the Debtors, only Qualified Bidders shall be entitled to bid at the Auction.

The Debtors (in consultation with the Consultation Parties) have the right to request any additional information that will allow the Debtors (in consultation with the Consultation Parties) to make a reasonable determination as to a Qualified Bidder’s financial and other capabilities to consummate the Sale contemplated by their proposal and any further information that the Debtors (in consultation with the Consultation Parties) believe is reasonably necessary to clarify and evaluate any Bid made by a Qualified Bidder during the Auction.



The Debtors, after consultation with the Consultation Parties, may announce at the Auction modified or additional procedures for conducting the Auction or otherwise modify the Bidding Procedures.

b. **Terms of Overbids.** Each Overbid must comply with the following terms:

1. Minimum Overbid Increment. At the commencement of the initial solicitation of Overbids, the Debtors shall announce the minimum increment by which any Overbid must exceed the applicable Starting Bid; provided that, the initial increment must be at least \$250,000. For each subsequent bid (a “Subsequent Bid”), the minimum Overbid must also be at least \$250,000. The Debtors may, in their reasonable business judgment (in consultation with the Consultation Parties), announce increases or reductions to the applicable minimum Overbid increment at any time during the Auction.
2. Conclusion of Each Overbid Round. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline by which time any Overbids must be submitted to the Debtors (an “Overbid Round Deadline”); provided that the Debtors, in their reasonable business judgment may extend any Overbid Round Deadline.
3. Overbid Alterations. An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable in the aggregate to the Debtors’ estates than any prior Qualified Bid or Overbid, as determined in the Debtors’ business judgment (in consultation with the Consultation Parties) but shall otherwise comply with the terms of the Bidding Procedures.
4. Announcing Highest Bid. Subsequent to each Overbid Round Deadline, the Debtors shall announce whether the Debtors have identified an Overbid as being higher or otherwise better than the Starting Bid and, in the initial Overbid round, or, in subsequent rounds, the Overbid designated by the Debtors as the prevailing highest or otherwise best Bid (the “Leading Bid”). The Debtors shall describe to all applicable Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Leading Bid, as well as the value attributable by the Debtors to such Leading Bid.

c. **Consideration of Overbids.** The Debtors reserve the right, in their business judgment (in consultation with the Consultation Parties), to adjourn the Auction one or more times, to, among other things (1) facilitate discussions between the Debtors and Qualified Bidders, (2) allow Qualified Bidders the opportunity to consider how they wish to proceed, and (3) provide Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, in their business judgment (in consultation with the Consultation Parties), may require, that the Qualified Bidder has sufficient internal resources or has received

sufficient non-contingent financing commitments to consummate the proposed Sale at the prevailing Overbid amount.

- d. **Closing the Auction.** The Auction shall continue until there is only one or more Qualified Bids that the Debtors determine, in their business judgment and in consultation with their advisors and the Consultation Parties, to be the highest or otherwise best Qualified Bid for the respective Asset Sale. Such Qualified Bid shall be designated the “Successful Bid” for such Sale and the Qualified Bidder submitting such Qualified Bid shall be designated the “Successful Bidder” with respect to such Sale. At such time the Debtors will close the Auction and designate the Next-Highest Bid and Next-Highest Bidder in accordance with the Bidding Procedures. Before determining that a bidder other than a Stalking Horse Bidder is the Successful Bidder, the Debtors shall notify the Stalking Horse Bidder, if any, of their intent to make such a determination, shall disclose to the Stalking Horse Bidder the applicable competing bid, and shall in good faith inform the Stalking Horse Bidder of the minimum changes required such that the Debtors would consider such modified Stalking Horse Bid, in the exercise of their good faith business judgment (in consultation with the Consultation Parties), the highest or otherwise best offer. If the Stalking Horse Bidder determines to modify its bid to become the highest or otherwise best bid in the judgment of the Debtors, any competing bidder will be given a similar opportunity to modify its bid, with this back and forth process continuing until there is a Successful Bidder. The Debtors’ designation of a Qualified Bid as a Successful Bid (or Next-Highest Bid, as applicable) shall be subject to and conditioned on the Court’s approval of such Successful Bid (or Next-Highest Bid, as applicable) and the Sale contemplated thereby. As soon as reasonably practicable after the designation of a Successful Bid (or Next-Highest Bid, as applicable), the Debtors shall finalize definitive documentation to implement the terms of such Successful Bid (or Next-Highest Bid, as applicable) and cause such definitive documentation to be filed with the Court.
- e. **Rejection of Bids.** The Debtors, in consultation with the Consultation Parties, in their reasonable business judgment may reject, at any time before entry of an order of the Court approving a Successful Bid (or Next-Highest Bid, as applicable), any Bid that the Debtors determine is (1) inadequate or insufficient, (2) not in conformity with the requirements of the Bankruptcy Code and/or the Bidding Procedures, or (3) contrary to the best interests of the Debtors, their estates, their creditors, and other stakeholders.

Nothing in these Auction Procedures (if an Auction is held) will prevent the Debtors or their respective governing bodies from exercising their respective fiduciary duties under applicable law or as reasonably determined in good faith by the Debtors to terminate the Auction or any of the Sale(s) considered therein.

Within one (1) business day following the conclusion of the Auction, the Debtors shall file a notice on the Bankruptcy Court’s docket identifying (with specificity) the Successful Bidder for the respective Asset Sale and any applicable Next-Highest Bidder.



The Debtors' presentation to the Bankruptcy Court for approval of a selected Qualified Bid as a Successful Bid does not constitute the Debtor's acceptance of such Bid. The Debtors will have accepted a Successful Bid only when such Successful Bid has been approved by the Bankruptcy Court at the Sale Hearing.

All bidders at the Auction will be deemed to have consented to the core jurisdiction and constitutional authority of the Bankruptcy Court and waived any right to jury trial in connection with any disputes relating to the Auction, the Sale and all agreements entered into in connection with any proposed Sale.

## **XII. Designation of Next-Highest Bidder**

Notwithstanding any of the foregoing, in the event that a Successful Bidder fails to close a Sale prior to such date as specified in the applicable purchase agreement (or such date as may be extended by the Debtors), the Debtors (in consultation with the Consultation Parties), (i) shall provide written notice to the Next-Highest Bidder and (ii) file and serve a notice of intent to proceed with the Next-Highest Bidder (the "Notice of Intent to Proceed with Next-Highest Bidder"), at which time the Next-Highest Bidder will be deemed to be the Successful Bidder for such Assets, and the Debtors will be authorized, but not directed, to close the Sale to the Next-Highest Bidder subject to the terms of the Next-Highest Bid, as approved by further order of the Bankruptcy Court.

Notwithstanding the foregoing, affected landlords or contract counterparties shall have seven (7) days from the filing of a Notice of Intent to Proceed with the Next-Highest Bidder to object to the approval of the assumption and assignment of any contract or lease by the Next-Highest Bidder. The assumption and assignment of such contract or lease shall not be approved or otherwise authorized in connection with the closing of the Sale to the Next-Highest Bidder until such objection period has run and any timely objections resolved, and no finding or conclusion of law regarding the approval of the Sale to the Next-Highest Bidder shall have a preclusive effect on such objecting counterparty's rights with respect to assumption and assignment of any contract or lease except to the extent agreed upon or adjudicated to the contrary. If a timely objection is filed, the Debtors may seek to have such objection resolved on an expedited basis upon reasonable notice under the circumstances (which notice shall be no less than seven (7) days).

## **XIII. Right to Credit Bid.**

Any Qualified Bidder that has a valid and perfected lien on any Assets of the Debtors' estates (a "Secured Party") shall be entitled to credit bid all or a portion of the face value of such Secured Party's claims against the Debtors toward the purchase price specified in such Secured Party's Bid; provided that, a Secured Party shall be entitled to credit bid its claim(s) only (x) with respect to Assets that are subject to a valid and perfected lien in favor of such Secured Party as to such claim(s); and (y) as permitted under the provisions of the Prepetition ABL Intercreditor Agreement and the Prepetition 3L Intercreditor Agreement (each as defined in the interim order approving debtor-in-possession financing [Dkt. No. 86]). Notwithstanding the foregoing, nothing contained herein shall waive or otherwise affect the Committee's challenge rights in connection

with the interim and Final DIP Orders. Nothing contained herein shall alter or otherwise modify the Prepetition ABL Intercreditor Agreement or the Prepetition 3L Intercreditor Agreement.

#### **XIV. As-Is, Where-Is**

Consummation of any Sale will be on an “as is, where is” basis and without representations or warranties of any kind, nature, or description by the Debtors or their estates, except as specifically accepted or agreed to by the Debtors in the executed definitive documentation for the Sale (the “Definitive Documents”). Consummation of any Sale will be without any representations or warranties whatsoever by the Debtors’ representatives or advisors. Unless otherwise specifically accepted or agreed to by the Debtors in the Definitive Documents, all of the Debtors’ right, title, and interest in and to the Assets disposed of in a Sale will be transferred to the Successful Bidder (or Next-Highest Bidder, as applicable) free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests in accordance with sections 363(f) of the Bankruptcy Code.

#### **XV. No Fees for Potential Bidders or Qualified Bidders.**

Potential Bidders or Qualified Bidders, other than the Stalking Horse Bidder, if applicable, shall not be allowed any bidding fee, break-up fee, termination fee, transaction fee, expense reimbursement or any similar type of reimbursement as a precondition to, or in consideration of, presenting any bid or participating in the Bidding Process reflected herein.

#### **XVI. Sale Hearing**

The Court shall hold a hearing to consider approval of the Successful Bid (and Next-Highest Bid, as applicable) and the Sale contemplated thereby (the “Sale Hearing”). The Sale Hearing may be adjourned by the Debtors, in consultation with the Consultation Parties, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or by filing a notice, which may be a hearing agenda stating the adjournment, on the docket of the Chapter 11 Cases.

#### **XVII. Return of Good Faith Deposit.**

The Good Faith Deposits of all Qualified Bidders shall be held in escrow, but shall not become property of the Debtors’ estates absent further order of the Bankruptcy Court. The Debtors shall retain any Good Faith Deposit submitted by each Successful Bidder. At the closing of a Sale contemplated by a Successful Bid, the applicable Successful Bidder will be entitled to a credit for the amount of its Good Faith Deposit to the extent such a deposit was provided. The Good Faith Deposits of any Next-Highest Bidder shall be retained until three (3) business days after the applicable closing date (the “Closing Date”). The Good Faith Deposits of any other Qualified Bidders will be returned as soon as reasonably practicable, but no later than fourteen (14) business days following the Auction.

If a Successful Bidder (or, if the Sale is to be closed with a Next-Highest Bidder, then the Next-Highest Bidder) fails to consummate the Sale because of a breach or failure to perform on the part of such bidder, then, subject to the terms of the applicable Qualified Bid Purchase Agreement (as such agreement may be amended or modified at the Auction) or any other form of

purchase agreement reasonably satisfactory to the Debtors, the Debtors and their estate shall be entitled to retain the Good Faith Deposit of such Successful Bidder (or, if the Sale is to be closed with the Next-Highest Bidder, then such Next-Highest Bidder) as part of the damages resulting to the Debtor and its estate for such breach or failure to perform.

### **XVIII. Reservation of Rights and Modifications.**

Notwithstanding any of the foregoing, the Debtors, in consultation with the Consultation Parties, reserves the right to modify these Bidding Procedures at or prior to the Auction, including, without limitation, to extend the deadlines set forth herein, modify bidding increments, waive terms and conditions set forth herein with respect to any or all Potential Bidders (including, without limitation, the Bid Requirements), impose additional terms and conditions with respect to any or all potential bidders, adjourn or cancel the Auction at or prior to the Auction, and/or adjourn the Sale Hearing; provided that, the Debtor may not amend these Bidding Procedures or the Bidding Process to reduce or otherwise modify its obligations to consult with any Consultation Party without the consent of such Consultation Party or further order of the Court.

The Debtors shall consult with the Consultation Parties as explicitly provided for in these Bidding Procedures; provided that, the Debtors shall not be required to consult with any Consultation Party (or its advisors) regarding any particular issue, selection, or determination if the Debtors determine in good faith on advice of counsel that such consultation would be inconsistent with the exercise of its fiduciary duties.

Each reference in these Bidding Procedures to “consultation” (or similar phrase) with the Consultation Parties shall mean consultation in good faith.

### **XIX. Fiduciary Out.**

Notwithstanding anything to the contrary in the Bidding Procedures or any document filed with or entered by the Court, nothing in the Bidding Procedures or the Bidding Procedures Order shall require a Debtor or its board of directors, board of managers, or similar governing body to take any action or to refrain from taking any action with respect to any Sale or the Bidding Procedures to the extent such Debtor or governing body determines in good faith, in consultation with counsel, that taking or failing to take such action, as applicable, would be inconsistent with applicable law or its fiduciary obligations under applicable law.

**Exhibit 2**

**Sale Notice**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

CONN'S, INC., et al.<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-33357 (ARP)

(Jointly Administered)

**NOTICE OF AUCTION AND SALE HEARING**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. On July 23, 2024, Conn's, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors"), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas (the "Court"). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On July 26, 2024, the Debtors filed a motion (the "Bidding Procedures Motion"), pursuant to sections 105, 363 and 365 of the Bankruptcy Code and Rules 2002, 6004, 6006, 9007, and 9008 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), seeking entry of an order (the "Bidding Procedures Order") seeking, among other things, approval of procedures (the "Bidding Procedures")<sup>2</sup> for submitting competing bids for the Assets.

3. On [●], 2024, the Bankruptcy Court entered an order approving the Bidding Procedures Motion (the "Bidding Procedures Order"). Pursuant to the Bidding Procedures Order, if at least two (2) Qualified Bids with regard to any Assets (as defined in the Bidding Procedures Order) are received by the Bid Deadline (as defined below), the Debtors will conduct the Auction, which shall be start on **September 11, 2024 at 10:00 a.m. (prevailing Central Time)**. Professionals and principals for the Debtors, each Qualified Bidder (including, its representative(s), if any), each of the Consultation Parties, the U.S. Trustee, and any other parties the Debtors deem appropriate shall be permitted to attend and observe the Auction. Only parties

<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of each of the Debtor's federal tax identification number, are: Conn's, Inc. (2840), Conn Appliances, Inc. (0706), CAI Holding, LLC (2675), Conn Lending, LLC (9857), Conn Credit I, LP (0545), Conn Credit Corporation, Inc. (9273), CAI Credit Insurance Agency, Inc. (5846), New RTO, LLC (6400), W.S. Badcock LLC (2010), W.S. Badcock Credit LLC (5990), and W.S. Badcock Credit I LLC (6422). The Debtor's service address is 2445 Technology Forest Blvd., Suite 800, The Woodlands, TX 77381.

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

that have submitted a Qualified Bid, as set forth in the Bidding Procedures Order, by no later than the Bid Deadline may bid at the Auction. Any party that wishes to submit a Bid (as defined in the Bidding Procedures) for all or any portion of the Assets must submit a 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(s) at the Auction, free and clear of all liens, claims and encumbrances, will be held before the Honorable Alfred R. Pérez, United States Bankruptcy Judge, on **October 1, 2024, at [●]:00 [a./p.]m (prevailing Central Time)**, or at such other time thereafter as counsel may be heard. The Sale Hearing may be adjourned by the Debtors 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 or by including such adjournment on any agenda filed with the Bankruptcy Court or by the filing of a notice with the Bankruptcy Court.

5. Objections related to approval of the Sale, conduct at the Auction, the identity of the Successful Bidder, and adequate assurance of future performance by the Successful Bidder must be in writing, state the basis of such objection with specificity, and be filed with this Court and served so as to be received on or before **September 19, 2024, at 4:00 p.m. (prevailing Central Time)** by the following parties (collectively, the “Objection Notice Parties”):

- (a) proposed counsel to the Debtor, Sidley Austin LLP, 1000 Louisiana St., Houston, TX 77002 (Attn.: Duston McFaul (dmcfaul@sidley.com), Jackson Garvey (jgarvey@sidley.com), Jeri Leigh Miller (jeri.miller@sidley.com), Maegan Quejada (mquejada@sidley.com), and Michael Sabino (msabino@sidley.com));
- (b) the Office of the United States Trustee for the Southern District of Texas (the “U.S. Trustee”), 515 Rusk St., Suite 3516, Houston, Texas 77002 (Attn.: Jayson B. Ruff (jayson.b.ruff@usdoj.gov); and
- (c) proposed counsel to the Official Committee of Unsecured Creditors (the “Committee”), Pachulski Stang, Ziehl & Jones LLP, 780 Third Avenue, New York, New York 10017 (Attn: Bradford J. Sandler (bsandler@pszjlaw.com), Robert J. Feinstein (rfeinstein@pszjlaw.com), and Paul J. Labov (plabov@pszjlaw.com)).

**UNLESS AN OBJECTION IS TIMELY SERVED AND FILED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED WITHOUT FURTHER HEARING AND NOTICE.**

6. This Sale Notice is subject to the fuller terms and conditions of the Bidding Procedures and the Bidding Procedures Order, with such Bidding Procedures Order controlling in the event of any conflict. The Debtors encourage all parties-in-interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of the Assets and/or copies of any related document, including the Bidding Procedures Motion or the Bidding Procedures Order, may make a written request to Duston McFaul (dmcfaul@sidley.com), Jackson Garvey (jgarvey@sidley.com), Jeri Leigh Miller (jeri.miller@sidley.com), Maegan Quejada (mquejada@sidley.com), or Michael Sabino (msabino@sidley.com). In addition, copies of the Bidding Procedures Motion, the Bidding Procedures Order and this Notice are on file with the

Clerk of the Bankruptcy Court, and are available on the Debtors' claims and noticing agent's website free of charge at <https://dm.epiq11.com/conns>.

**EXHIBIT 3**

**Assumption and Assignment Notice**



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

CONN'S, INC., et al.<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-33357 (ARP)

(Jointly Administered)

**NOTICE OF (I) POTENTIAL ASSUMPTION AND ASSIGNMENT OF  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (II) CURE AMOUNTS**

**You are receiving this notice because you may be a counterparty to a contract or lease with Conn's, Inc or one of its affiliates or subsidiaries. Please read this notice carefully as your rights may be affected by the transactions described herein.**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. On July 23, 2024, Conn's, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors"), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas (the "Court"). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On July 26, 2024, the Debtors filed a motion seeking approval of certain procedures for the sale of some or all of the Debtors' assets (the "Bidding Procedures").<sup>2</sup> The Court entered an order approving the Bidding Procedures on August [●], 2024 (the "Bid Procedures Order").

3. Pursuant to the Bidding Procedures and the Bidding Procedures Order, the Debtors may potentially assume and assign to the Successful Bidder one or more of those executory contracts and unexpired leases listed on **Schedule A** annexed hereto (collectively, the "Potentially Assigned Agreements") and each, a "Potentially Assigned Agreement"), pursuant to section 365 of the Bankruptcy Code.

<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of each of the Debtor's federal tax identification number, are: Conn's, Inc. (2840), Conn Appliances, Inc. (0706), CAI Holding, LLC (2675), Conn Lending, LLC (9857), Conn Credit I, LP (0545), Conn Credit Corporation, Inc. (9273), CAI Credit Insurance Agency, Inc. (5846), New RTO, LLC (6400), W.S. Badcock LLC (2010), W.S. Badcock Credit LLC (5990), and W.S. Badcock Credit I LLC (6422). The Debtor's service address is 2445 Technology Forest Blvd., Suite 800, The Woodlands, TX 77381.

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

4. The Debtors have indicated on **Schedule A** annexed hereto the cure amounts, if any, that the Debtors believe must be paid to cure any prepetition defaults and pay all amounts accrued under the Potentially Assigned Agreements (in each instance, the “Cure Amount”).

5. Any party seeking to object to the validity of the Cure Amount as determined by the Debtors or otherwise assert that any other amounts, defaults, conditions or pecuniary losses must be cured or satisfied under any of the Potentially Assigned Agreements in order for such contract or lease to be assumed and assigned, must file an objection (the “Contract Objection”) that (a) is in writing, (b) sets forth the specific monetary amount the objector asserts to be due, and the specific types of the alleged defaults, pecuniary losses, accrued amounts and conditions to assignment and the support therefor, (c) is filed with the Clerk of the Bankruptcy Court and (d) is served on (i) proposed counsel to the Debtor, Sidley Austin LLP, 1000 Louisiana St., Houston, TX 77002 (Attn.: Duston McFaul (dmcfaul@sidley.com), Jackson Garvey (jgarvey@sidley.com), Jeri Leigh Miller (jeri.miller@sidley.com), Maegan Quejada (mquejada@sidley.com), and Michael Sabino (msabino@sidley.com)); (ii) the Office of the United States Trustee for the Southern District of Texas, 515 Rusk St., Suite 3516, Houston, Texas 77002 (Attn.: Jayson B. Ruff (jayson.b.ruff@usdoj.gov); and (iii) counsel to the Official Committee of Unsecured Creditors (the “Committee”), Pachulski Stang, Ziehl & Jones LLP, 780 Third Avenue, New York, New York 10017 (Attn: Bradford J. Sandler (bsandler@pszjlaw.com), Robert J. Feinstein (rfeinstein@pszjlaw.com), and Paul J. Labov (plabov@pszjlaw.com)) (collectively, the “Notice Parties”) by no later than **4:00 p.m. (prevailing Eastern Time) on the date that is fourteen (14) calendar days after the service of this Assumption and Assignment Notice** (the “Contract Objection Deadline”).

6. The Debtors shall file a notice identifying the Successful Bidder with the Bankruptcy Court and serve such notice upon parties in interest within one (1) business day of the close of any Auction designating such Successful Bidder. The deadline for objecting to the assignment of the Potentially Assigned Agreements to such Successful Bidder on the basis of adequate assurance of future performance (“Adequate Assurance Objection”) shall be **September 19, 2024 at 4:00 (prevailing Central Time)** (the “Adequate Assurance Objection Deadline”).

**UNLESS A CONTRACT OBJECTION IS TIMELY AND PROPERLY FILED AND SERVED BEFORE THE CONTRACT OBJECTION DEADLINE OR AN ADEQUATE ASSURANCE OBJECTION IS TIMELY RAISED BEFORE THE ADEQUATE ASSURANCE OBJECTION DEADLINE, THE NON-DEBTOR PARTY TO A POTENTIALLY ASSIGNED AGREEMENT SHALL (A) BE FOREVER BARRED FROM OBJECTING TO THE CURE AMOUNT AND FROM ASSERTING ANY ADDITIONAL CURE OR OTHER AMOUNTS WITH RESPECT TO SUCH POTENTIALLY ASSIGNED AGREEMENT, AND THE DEBTOR AND THE SUCCESSFUL BIDDER(S) SHALL BE ENTITLED TO RELY SOLELY UPON THE CURE AMOUNT; (B) BE DEEMED TO HAVE CONSENTED TO ANY ASSUMPTION AND ASSIGNMENT OF SUCH POTENTIALLY ASSIGNED AGREEMENT; AND (C) BE FOREVER BARRED AND ESTOPPED FROM ASSERTING OR CLAIMING AGAINST THE DEBTOR OR THE SUCCESSFUL BIDDER(S) THAT ANY ADDITIONAL AMOUNTS ARE DUE OR OTHER DEFAULTS EXIST, THAT CONDITIONS TO ASSIGNMENT MUST BE SATISFIED UNDER SUCH POTENTIALLY ASSIGNED AGREEMENT OR THAT**

**THERE IS ANY OBJECTION OR DEFENSE TO THE ASSUMPTION AND ASSIGNMENT OF SUCH POTENTIALLY ASSIGNED AGREEMENT.**

**IN ADDITION, THE PROPOSED CURE AMOUNT SET FORTH IN SCHEDULE A HERETO SHALL BE BINDING UPON THE NON-DEBTOR PARTIES TO THE POTENTIALLY ASSIGNED AGREEMENTS FOR ALL PURPOSES IN THESE CHAPTER 11 CASES AND WILL CONSTITUTE A FINAL DETERMINATION OF THE CURE AMOUNTS REQUIRED TO BE PAID BY THE DEBTOR IN CONNECTION WITH ANY ASSUMPTION AND ASSIGNMENT OF THE POTENTIALLY ASSIGNED AGREEMENTS.**

7. Where a non-Debtor counterparty to a Potentially Assigned Agreement timely and properly files an objection asserting a cure amount higher or different than the proposed Cure Amount, (the “Disputed Cure Amount”), then (a) the cure amount shall be as agreed between the parties or (b) to the extent the parties are unable to consensually resolve the dispute, then such objection will be adjudicated at the Sale Hearing or at such other date and time as may be determined by the Debtors or fixed by the Court. All other objections to the proposed assumption and assignment of a Potentially Assigned Agreement will likewise be heard at the Sale Hearing, unless adjourned by agreement of the parties.

8. A Contract Objection shall not constitute an objection to the relief generally requested in the motion to approve the Bidding Procedures or in the Sale. Parties wishing to otherwise object to the relief requested in the motion to approve the Bidding Procedures or the Sale must file and serve a separate objection, stating with particularity such party’s grounds for objection, on each of the Notice Parties listed above no later than **September 19, 2024 at 4:00 p.m. (prevailing Central Time)**.

9. If you agree with the Cure Amount indicated on **Schedule A**, and otherwise do not object to the Debtors’ assignment of your lease or contract, you need not take any further action.

10. The Debtors’ decision to assume and assign the Potentially Assigned Agreements is subject to Bankruptcy Court approval and consummation of the sale of the Assets.

**Inclusion of any document on the list of Potentially Assigned Agreements shall not constitute or be deemed to be a determination or admission by the Debtors or the Successful Bidder(s) that such document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code, and all rights with respect thereto are being expressly reserved.**

**Schedule A**

**LEASES**

Landlord Name / Address	<u>Address of Subject Property</u>	Cure Amount
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**EXECUTORY CONTRACTS**

<u>Counterparty Name / Address</u>	<u>Description of Contract</u>	Cure Amount
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