

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

In re:

NIKOLA CORP., *et al.*,

Debtors.

Chapter 11

Case No. 25-10258 (TMH)

(Jointly Administered)

Hearing Date: Subject to Shorten Notice

Objection Deadline: Subject to Shorten Notice

MOTION FOR ORDER ALLOWING INSPECTION WITHOUT RESTRICTIONS

ISSO, LLC (“ISSO”) an interested bidder in this case, through counsel, hereby requests emergency relief, allowing for an anticipated inspection of the Nikola, Coolidge, AZ facility (the "Facility") on April 2, 2025 to take place without two unreasonable restrictions imposed by the Debtors.

1. The Debtors and ISSO, LLC tentatively have agreed upon an April 2, 2025 inspection of the Facility, but the Debtors have imposed two unworkable, and unnecessary restrictions. First, Debtors insist that ISSO not take pictures or recordings of any kind while inspecting the premises. Second, Debtors insist that ISSO [REDACTED], not be present as part of the inspection.

2. The approved bid procedures in this case set March 17, 2025 as the deadline for Stalking Horse bids. The deadline passed and to date the Debtors have put forth no Stalking Horse bid in this case. ISSO submitted its bid for designated Nikola assets on March 21, 2025 and is in the process of qualifying the bid pursuant to the same procedures. With the bid deadline of April 3 - two days away - ISSO with [REDACTED] present, desires to inspect the Facility. Presently ISSO in the process of qualifying their bid pursuant to the bid procedures order, and fully expects to wire 10% of the bid amount as a deposit on or before the April 3 bid deadline. ISSO fully expects to be qualified on or before the deadline.

3. An important part of the qualification process requires an inspection of the Facility to assess its status, and the status of the equipment located there. It is absolutely imperative for

putting the bid together that ISSO have pictures and videos. In that regard, ISSO [REDACTED] will stipulate to and are willing to be bound by standard non-disclosure documents prohibiting the sharing of information with any party, not affiliated with ISSO, and not otherwise bound by the nondisclosure agreement.

4. It is also absolutely essential [REDACTED] be allowed to inspect the facility on April 2, 2025. It is unreasonable, unnecessary and capricious to prevent [REDACTED] from being present for the inspection. Debtors can provide whatever security they think appropriate. It is essential to the process that [REDACTED] be present to evaluate the Facility, its status and equipment in determining the maximum bid it is willing to place.

5. A bankruptcy court has considerable discretion in approving assets sales and is granted ample latitude to strike a balance between fairness, finality, integrity, and maximization of assets. *Wintz v. Am. Freightways, Inc. (In re Wintz Cos.)*, 219 F.3d 807, 812 (8th Cir.2000); *Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn, Inc.)*, 107 F.3d 558, 565–66 (8th Cir.1997). The court must consider the bidders' reasonable expectations to encourage confidence in the process. Finality and regularity are important because they encourage interested parties to sincerely extend their best and highest offers. On the other hand, the court must be mindful of the interests of unsecured creditors and the goal of maximizing the value of the bankruptcy estate. *Food Barn*, 107 F.3d at 565–66. Prior to entry of an order confirming a sale, the court has broad discretion to conduct sales in the manner it deems most appropriate. *Brink v. Payless Cashways, Inc. (In re Payless Cashways, Inc.)*, 281 B.R. 648, 652 (8th Cir. BAP 2002). Here Debtor's restrictions are neither fair under the circumstances, nor balanced, nor do they lend themselves toward maximizing the value of the estate's assets. Instead, they constitute an unreasonable restraint against this interested bidding party.

6. Because of the shortness of time and the unreasonable requests imposed by the Debtors, ISSO, as an interested bidder, respectfully requests this Court to enter an order directing the Debtor to allow the inspection to take place without recording restrictions and with [REDACTED] present.

Dated: April 1, 2025
Wilmington, Delaware

ASHBY & GEDDES, P.A.

/s/ Ricardo Palacio

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