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Clerk of Court
Shawano County, WI
2022CV000079

STATE OF WISCONSIN CIRCUIT COURT SHAWANO COUNTY

In re:

ANNIE'S CAMPGROUND LLC,

Case No.: 22-CV-079

Debtor.

AUCTION TERMS AND PROCEDURES

I. AUCTION TERMS

1. Assets. Seth E. Dizard (the "Receiver"), the Wis. Stat. Chapter 128 receiver of Annie's Campground, LLC ("Annie's Campground"), will conduct a going concern auction (the "Auction") of substantially all assets of Annie's Campground, as more particularly described below (the "Assets"). The Auction date, time, and location will be provided to all prospective bidders and interested parties upon request.

2. As Is, Where Is. The Assets will be sold on an "as is, where is" basis, without any representations or warranties by Annie's Campground, the Receiver, O'Neil, Cannon, Hollman, DeJong & Laing S.C., Gregory Fritsch, Micokey, or Bank First (the "Bank"), except as expressly provided herein.

3. Free and Clear of Liens. The sale of the Assets shall be free and clear of all liens, claims, leasehold interests, and encumbrances, with any and all liens, claims, leasehold interests, and encumbrances attaching to the proceeds of sale to the same extent and priority as they existed with respect to the Assets immediately prior to the sale. The sale of the Assets is subject to the prior consent of the Bank as provided in the Bid Procedures below.

4. Due Diligence. Prior to the Auction, the Receiver and Mr. Fritsch will grant reasonable access to the Assets and make due diligence information available to any prospective purchaser who executes and delivers a confidentiality agreement acceptable to the Receiver.

5. Asset Purchase Agreement. Each Winning Bidder (as defined below) shall execute and deliver to the Receiver an Asset Purchase Agreement acceptable in form and substance to the Receiver and the Bank prior to the hearing to approve the sale to such Winning Bidder. Interested parties may obtain the proposed form of the Asset Purchase Agreement by contacting the Receiver or Mr. Fritsch.

6. Stalking Horse Bidder. At any time prior to the commencement of the Auction, the Receiver will have the right to enter into an Asset Purchase Agreement with a prospective buyer (a “Stalking Horse Bidder”) and to offer such Stalking Horse Bidder bid protection on commercially reasonable terms to be agreed upon by the Receiver and the Stalking Horse Bidder, subject to approval by the Bank. No Stalking Horse Bidder shall be entitled to bid protection unless (a) such Stalking Horse Bidder (i) executes and delivers an Asset Purchase Agreement acceptable to the Receiver and the Bank and (ii) is ready, willing, and able to close on the sale of Assets; and (b) the Assets are sold to another bidder and the closing has taken place. As part of its bid, a Stalking Horse Bidder may be required to submit to the Receiver an earnest money deposit in an amount acceptable to the Receiver and the Bank and provide evidence satisfactory to the Receiver, in the Receiver’s sole discretion, of the Stalking Horse Bidder’s financial ability to consummate a purchase of the Assets. To the extent a Stalking Horse Bidder has been designated by the Receiver, the bidding for the Assets will start at the purchase price offered by such Stalking Horse Bidder plus an amount to be determined by the Receiver in his discretion.

7. Court Approval. Annie's Campground is the subject of a receivership proceeding under Chapter 128 of the Wisconsin Statutes, which is pending in the Circuit Court for Shawano County, Wisconsin, Case No. 22-CV-079 (the "Receivership Proceedings"). A hearing will be held in the Receivership Proceeding before the Honorable Katherine Sloma at the Shawano County Courthouse (the "Sale Hearing") to approve the proposed sale of the Assets to the party submitting a winning bid at the Auction that is designated by the Receiver as the winning bid and consented to by the Bank (the "Winning Bid").

8. Hearing Appearance. The party submitting the Winning Bid (the "Winning Bidder") must appear at the Sale Hearing and state, on the record, that such Winning Bidder is ready, willing, and able to close on the purchase of the Assets with no contingencies whatsoever, other than Court approval of the transaction.

9. Closing. The closing of the sale of the Assets shall take place: (a) to a Winning Bidder, within five (5) business days, and (b) if any Winning Bidder fails to close, to the Back-up Bidder (as defined below) within ten (10) days, from (in either case) the date an order approving the sale of the Assets is entered in the Receivership Proceedings. The closing shall take place at O'Neil, Cannon, Hollman, DeJong & Laing S.C., 111 East Wisconsin Avenue, Suite 1400, Milwaukee, Wisconsin 53202, unless a different time and/or place is otherwise agreed to by the Receiver. An appeal of the order approving the sale of the Assets will not, absent a stay pending appeal or injunction enjoining the closing, relieve either party of the obligation to close such sale. All sales shall be final. All sales shall be for cash, except as otherwise agreed to in writing between the buyer of the Assets and the Receiver, with the consent of the Bank.

II. BID PROCEDURES

1. Bidder Qualifications. All persons or entities wishing to participate in the Auction must:

A. Be present at the Auction in person or by a duly authorized agent. The Receiver may allow bidders to appear at the Auction remotely, in his sole discretion.

B. Deliver to the Receiver, no later than 5:00 p.m., Local Time, two days before the Auction, a \$100,000.00 deposit by (i) a wire transfer or (ii) a cashier's check made payable to the order of "O'Neil, Cannon, Hollman, DeJong & Laing Trust Account, on behalf of Seth E. Dizard, as Receiver for Annie's Campground LLC" (the "Deposit"). All Deposits received shall be held in a non-interest bearing account. The Deposit of the Winning Bidder shall be applied to the purchase price at the closing of the sale or, in the event the sale is not approved by the Court, the Deposit shall be returned to such depositor with all due speed. The Deposit submitted by the Back-Up Bidder (as defined below) will be returned to such Back-Up Bidder after the Winning Bidder closes the sale or will be applied to the purchase price at the Back-Up Bidder's closing, as the case may be. Any Deposit from bidders other than the Winning Bidder and the Back-Up Bidder will be promptly returned to them after the Auction. In the event a Winning Bidder fails to close as contemplated by the applicable Asset Purchase Agreement, the Receiver may terminate the Asset Purchase Agreement and keep such Winning Bidder's Deposit as liquidated damages. The Receiver reserves the right to seek such other damages as he deems appropriate.

C. Register by signing the "official sign-in sheet" at the Auction, acknowledging their interest in participating in the Auction and their familiarity with and acceptance of these Auction Terms and Procedures;

D. Advise the Receiver, in writing at the Auction, if any principal of the bidding group includes or will include an owner, member, officer, director, agent, or current or former employee of Annie's Campground;

E. Present to the Receiver, at or before the commencement of the Auction, evidence satisfactory to the Receiver, in the Receiver's sole discretion, of the bidder's financial ability to consummate a purchase of the Assets; and

F. Advise the Receiver, at the Auction, (i) of the material terms of each bid submitted by such party and (ii) whether the bidder intends to [1] assume all liabilities for any or all contingent warranty claims of Annie's Campground's customers, [2] assume all liabilities for customer deposits, [3] hire substantially all of Annie's Campground's employees and [4] assume the obligations to Annie's Campground's employees for all accrued and unpaid wages and benefits (including all accrued vacation pay and other paid-time-off).

2. Bids. All bids shall be unconditional. Without limiting the generality of the foregoing, no bid shall be conditioned upon acceptance of one or more other bids, financing, landlord consent, or additional due diligence. All bids, including any Stalking Horse Bid, are subject to approval of the Court overseeing the Receivership Proceedings. All bids shall be in increments of not less than Twenty-Five Thousand Dollars (\$25,000.00), or such lesser amounts determined by the Receiver in his sole discretion during the Auction.

3. Order of Sale. The Auction shall proceed in rounds. Each bidder shall have fifteen (15) minutes in each round to consider the current bid and to provide the Receiver with their decision. If there is no Stalking Horse Bidder, the Receiver may set an opening bid, in his sole discretion. The bids in each round shall begin with the highest bid made in the preceding round. A bidder may bid or pass in any round. If no additional bids are made in the second or any subsequent round, the Receiver shall declare the Auction concluded.

4. Secured Creditor Consent and Court Approval. All sales of the Assets are subject to the consent of the Bank. The Bank and the Receiver reserve the right to reject the final bid for

the Assets and to decline to sell any of the Assets at the Auction. The Receiver will designate the Winning Bid at the conclusion of the Auction, and the Receiver will use his best efforts to have the Court overseeing the Receivership Proceedings enter an order authorizing the Receiver to consummate the sale of the Assets to the Winning Bidder pursuant to the terms of the Winning Bid and the Asset Purchase Agreement between the Receiver and the Winning Bidder and to execute such additional documentation as is reasonably necessary to complete the sale. A Winning Bid shall be binding on the Winning Bidder and may be withdrawn only in the event it is not approved by the Court overseeing the Receivership Proceedings. No Winning Bid is binding on the Receiver or the Bank until the Court overseeing the Receivership Proceedings enters an order approving the sale of the Assets pursuant to such Winning Bid. The Receiver will ask the Court to approve the Winning Bid for the Assets. In determining whether to designate a bid at the Auction as the Winning Bid, the Receiver will consider, among other things, which bid yields the highest overall aggregate purchase price for the Assets. The Receiver may, in his discretion, also select the next highest or otherwise best bid from a qualified bidder as the back-up bid (the "Back-Up Bid"). The maker of the Back-Up Bid (the "Back-Up Bidder") shall be obligated to close at the level of the Back-Up Bidder's highest bid in the event the Winning Bidder fails to timely close, and is subject to Section II, Paragraph 1(B) and Section I, Paragraph 9 above, to the same extent as the Winning Bidder.

5. Auction Rules. At the Auction, the Receiver may adopt additional rules which are consistent with these Auction Terms and Procedures.

6. Assets Included in the Auction. Attached as Exhibit "A" and incorporated herein is a description of the Assets to be sold at the Auction.

7. Assets Excluded from the Auction. All Assets not designated by the Receiver as included in the Auction are excluded from the Auction, including, but not limited to, the following expressly excluded assets:

- A. All cash on hand or on deposit, including, but not limited to, any Deposit retained by the Receiver as liquidated damages under Section II, Paragraph 1(B) above;
- B. All causes of action in favor of Annie's Campground or the receivership estate, including claims under Chapter 128 and 242 of the Wisconsin Statutes;
- C. All refund claims, including insurance and tax refunds;
- D. Notes receivable from parties related to Annie's Campground;
- E. All leased equipment;
- F. All licensed software;
- G. All life insurance policies owned by Annie's Campground and the cash surrender value of those policies, if any;
- H. Any customer owned inventory, customer owned tooling and customer owned machinery and equipment, or other property on Annie's Campground's premises to which the Receiver does not have title; and
- I. All books and records related to the excluded assets.

8. Additional Information. If a prospective purchaser has any questions regarding the Assets, Annie's Campground, the Receivership Proceedings, these Auction Terms and Procedures, or the Auction, please contact the following:

Gregory Fritsch
Fritsch Consulting LLC
2404 North 88th Street
Wauwatosa, WI 53226
Phone: (414) 759-8328
Greg.fritsch@Fritschconsultingllc.onmicrosoft.com

or

Seth E. Dizard, Receiver
O'Neil, Cannon, Hollman, DeJong & Laing S.C.
111 East Wisconsin Avenue, Suite 1400
Milwaukee, WI 53202
Phone: (414) 276-5000
Seth.dizard@wilaw.com

Dated: June 27, 2022

O'NEIL, CANNON, HOLLMAN, DEJONG
& LAING S.C.
Seth E. Dizard, Receiver of Annie's
Campground

Electronically signed by Seth E. Dizard

Seth E. Dizard
State Bar No. 1025871
Seth.Dizard@wilaw.com
Jessica K. Haskell
State Bar No. 1113326
Jessica.Haskell@wilaw.com

P.O. Address:
111 East Wisconsin Avenue, Suite 1400
Milwaukee, Wisconsin 53202
(414) 276-5000

All assets, properties, claims and rights (of every kind, nature, character and description, whether real, personal or mixed, tangible or intangible, accrued, contingent or otherwise, wherever located and regardless of whether reflected on Annie's Campground's or the Receiver's books), other than the Excluded Assets as set forth in Paragraph 7 of the Auction Procedures. Without limiting the generality of the foregoing, the Purchased Assets shall include, without limitation, the following:

- (a) Personal Property. All owned equipment, machinery, tools, furniture, fixtures, computers, vehicles, supplies, and other personal property.
- (b) Real Estate. The real estate and improvements thereon and owned buildings located at W12505 Roosevelt Road, Gresham, Wisconsin 54128.
- (c) Intangible Assets. All patents, patent applications, trademarks, trademark applications, service marks, trade names corporate names, copyrights, copyright applications, trade secrets, rights in software, computer programs and source code, websites (including all URLs and website files, content and infrastructure and other related rights), domain names, licenses, goodwill, confidential information, formulas, systems, processes, techniques, know-how, employee agreements and covenants respecting intellectual property, causes of action (including all claims for infringement), trade secrets, telephone, telex and facsimile numbers and other directory listings and all other intellectual property rights and intangible assets, including any items under development.
- (d) Inventory. All inventories of raw materials, work-in-process, finished goods and supplies.
- (e) Contracts. Those leases, contracts, purchase orders and other agreements designated by Purchaser in writing prior to Closing.
- (f) Records and Documents. All files, records, books, supplier, dealer and customer lists, work orders, credit information and correspondence, operating data, drawings, plans, designs, financial information, sales and marketing information and all other records and documents.
- (g) Prepaid Assets. All prepaid rent, utilities, deposits and other prepaid items.
- (h) Licenses and Permits. All government licenses, approvals, permits and authorizations (and any applications for the foregoing), to the extent they are assignable.
- (i) Confidentiality Agreements. All rights under any confidentiality or similar agreements executed and delivered to the Receiver by other potential purchasers of any of the Purchased Assets.