

NOTICE OF AUCTION OF ASSETS

PLEASE TAKE NOTICE THAT, as set forth herein, Development Specialists, Inc. (the “Assignee”), as assignee for the benefit of creditors of Flavours, Inc., will conduct an auction (the “Auction”) of certain assets (“Assets”) subject to the Bidding Procedures annexed hereto and as summarized below which summary is qualified in all respects by the Bidding Procedures. Any defined terms used in the summary shall have the meanings ascribed to them in the Bidding Procedures. The Bidding Procedures do not constitute a binding offer, agreement or commitment to enter into any transaction and no legally-binding obligation on any party shall be established. Qualified Bidders will be required to execute a non-conditional release accepting the terms of the Stalking Horse APA (as defined below) and waive all sale contingencies. Upon the conclusion of the Auction, the highest bid will be announced and the sale of the Assets (the “Sale”) shall be final. The Sale of the Assets is subject to the consent of Fifth Third Bank, an Ohio banking corporation (“Fifth Third”); provided, however, if the Opening Bid is met, Fifth Third has agreed to release its liens upon closing and receipt of the proceeds of the Sale.

- A. When:** January 8, 2014 at 10:00 a.m. prevailing Pacific Time.
- B. Where:** Law Offices of Latham & Watkins LLP
355 South Grand Avenue
Los Angeles, CA 91107-1560
- C. Assets to be Sold:** The Assets shall be sold in a single lot and shall consist of all of Assignee’s right, title and interest in and to the assets and property of Flavours, Inc. that were transferred to Assignee in an assignment for the benefit of creditors, including all of the assets and property described in Sections 1.1(a) and 1.1(c) of the Asset Purchase Agreement by and between the Assignee and Gordon Brothers Commercial & Industrial, LLC (the “Stalking Horse APA”), but excluding all assets listed on Schedule 1.2 of the Stalking Horse APA.
- The Assignee has the sole and exclusive right to accept any offer, no offer, or to withdraw the Assets from the Auction.
- D. Opening Bid:** Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000.00).
- E. Initial Overbid** One Hundred and Fifty Five Thousand Dollars (\$155,000.00).
- F. Successive Bid Increments:** Twenty Five Thousand¹ Dollars (\$25,000.00) or greater.

G. Attendance: Attendance at the Auction is required; telephonic or other electronic means of participation will not be allowed; no bids will be accepted unless provided in person at the Auction.

H. Deposit: A Deposit of \$250,000.00 must be submitted to the Assignee not less than two (2) business days before the commencement of the Auction. If the Successful Bidder fails to close, the Deposit shall be retained by the Assignee as liquidated damages. Each bidder that submits a Qualified Bid (each, a “Qualified Bidder”) agrees that the Deposit is a reasonable estimate of the damages that would be sustained by the Assignee if the Successful Bidder fails to close.

I. Qualification to Bid A potential bidder will be deemed to be a Qualified Bidder if (i) the bidder timely submits the Deposit to the Assignee; (ii) submits to the Assignee, such that they are received by the Assignee not less than two (2) business days in advance of the Auction, evidence reasonably acceptable to the Assignee, in consultation with Fifth Third, which demonstrates to the Assignee’s reasonable satisfaction the potential bidder’s ability to fully and timely perform if its bid were the Successful Bid; and (iii) the bidder attends the Auction in person.

J. Closing; Payment Terms:

- 1) Closing shall occur within two (2) business days following the conclusion of the Auction.
- 2) Payment shall be in U.S. Dollars, same day funds, paid at Closing by wire transfer.
- 3) Successful Bidder to pay all sales, transfer, recording, documentary or similar transfer taxes, fees, or costs or provide acceptable reseller’s certificate

K. Representations and Warranties: None. The Sale will be on an “as-is, where-is” basis, with no representations or warranties of fitness or merchantability or otherwise.

L. Assumption of Liability and Indemnity The purchaser of any of the Assets shall be responsible for, and shall indemnify and hold harmless the Assignee for all decommission and remediation costs arising from spills or releases caused by removal of any Assets, including machinery and equipment, after the ClosingDate.

M. Documentation: In the case of the personal property, a Bill of Sale substantially in the form attached to the Stalking Horse APA as Exhibit A, and in the case of the Intangible Property and Intellectual Property, an Assignment of Intangible Property substantially in the form attached to the Stalking Horse APA as Exhibit B.

N. Sale On Reserve The sale will be on reserve; the Assignee, in consultation with Fifth Third, reserves the right to accept the final bid at the Auction; acceptance / rejection will take place immediately following the conclusion of the Auction. Once accepted and the purchase price paid, Fifth Third will provide the Successful Bidder with a release of its lien(s) on the acquired Assets. If the Opening Bid is met, Fifth Third has agreed to release its liens upon closing and receipt of the proceeds of the Sale.

O. Removal of Purchased Assets Effective as of the Closing Date and ending on the date that is one hundred and twenty days thereafter (such period, the “License Term”), subject to the consent of Assignee’s landlord, Assignee shall license the Premises to the Successful Bidder for the sole purposes of conducting the sale of, selling and/or removing the Assets from the Premises together with activities incidental to any such removal (the “License”). For purposes of this Agreement, “Premises” shall mean 24855 and 24845 Corbit Place, Yorba Linda, CA 92887 and 5401/5443 E. La Palma, Anaheim, CA. During the License Term, the Successful Bidder shall be solely responsible for all expenses of the Premises including all rent, utility costs, phone service, internet lines, trash removal, taxes, and other costs, charges, and expenses associated with the Successful Bidder’s further sale and removal of the Assets. Unless otherwise agreed upon in writing by the Successful Bidder and the landlord for the Premises, upon expiration of the License Term, the Successful Bidder is required to return the Premises to its condition on the Closing Date. The Successful Bidder shall use commercially reasonable efforts to minimize any changes to the Premises as a result of its license.

The Successful Bidder shall be responsible for all rent, maintenance, insurance, security, utility, and other fees, expenses, charges, or costs that may be incurred as a result of the Assets not being removed from the Premises prior to the expiration of the License Term (the “Storage Costs”).

BIDDING PROCEDURES

Set forth below are the Bidding Procedures to be employed in connection with the disposition of the Assets by Development Specialists, Inc. (the “Assignee”), as assignee for the benefit of creditors of Flavours, Inc., at the Law Offices of Latham & Watkins LLP, 355 S. Grand Avenue, Los Angeles, CA 91107-1560 at 10:00 a.m. prevailing Pacific Time on January 8, 2014 by auction (the “Auction”). Should an adjournment of the Auction be necessary, the Assignee shall provide notice to all interested parties as soon as practicable in advance of the Auction. The Assignee shall have the right to adopt such other rules for the Auction that are not materially inconsistent with any of the provisions of these Bidding Procedures that, in the Assignee’s sole judgment, promote a fair open and competitive Auction. Any such adoption shall be stated on the record of the Auction.

Participation Requirements

To be deemed a “Qualified Bidder” and be permitted to attend and participate in the Auction each potential bidder must:

- (i) Submit to the Assignee a fully-refundable deposit of \$250,000.00 (the “Deposit”) not less than two (2) business days before the time of the Auction by wire transfer, with wire instructions to be provided upon request made to the Assignee. Refunds of Deposits from unsuccessful bidders will be made within 2 business days after the close of the sale.
- (ii) Submit, via first class mail and email to the below-listed address, to the Assignee, such that they are received by the Assignee not less than two (2) business days in advance of the Auction, evidence reasonably acceptable to the Assignee, in consultation with Fifth Third, which demonstrates to the Assignee’s reasonable satisfaction the potential bidder’s ability to fully and timely perform if its bid were the Successful Bid (as defined below).

To the Assignee:

Development Specialists, Inc.
Attn: Matthew P. Sorenson
333 South Grand Street
Suite 4070
Los Angeles, California 90071
Email: msorenson@dsi.biz

With a copy to:

Latham & Watkins LLP
Attn: Kimberly A. Posin, Esq.
355 S. Grand Avenue
Los Angeles, California 90071-1560
Email: kim.posin@lw.com

- (iii) Attend the Auction in person.

The Assignee may sell the Assets to one or more Qualified Bidders without an Auction and without further notice to interested parties. The Assignee has the sole authority to and will determine the order of the Auction bidders by the amount and date the bid was received. In the event that multiple bids are received for the same amount, the first bid submitted will hold the priority for that bid amount. The Assignee has the sole and exclusive right to determine when the bidding has been completed and who is a successful bidder for the assets.

Due Diligence

The Assignee shall coordinate all reasonable requests for additional information from potential bidders who the Assignee has determined are qualified to bid. All such requests shall be directed to Matthew P. Sorenson at msorenson@dsi.biz and to Kim Posin at kim.posin@lw.com. The Assignee will afford each potential bidder who executes and delivers a confidentiality agreement such information requested by such bidder as the Assignee determines to be reasonable and appropriate; provided, however, no conditions relating to the completion of due diligence shall be permitted with respect to a bid.

Bid Requirements

Only bids that meet each of the following requirements are “Qualified Bids” eligible to be considered at the Auction:

- (a) The bid must comply with, and confirm acceptance of, the terms and conditions described in Sections D, G, H, I, K, L, M, N and O of the Notice Of Auction of Assets;
- (b) The bid must be in writing and include a minimal markup of the Stalking Horse APA including the purchase price and name of buyer and removal of any bid protections. No other changes will be permitted without the Assignee’s written consent;
- (c) The bid must provide consideration in an amount no less than the Purchase Price plus a minimum overbid increment of \$155,000 (collectively, a “Minimum Overbid”);
- (d) The bid must be accompanied by a fully refundable deposit of \$250,000 not less than two (2) business days before the time of the Auction by wire transfer, with wire instructions to be provided upon request made to the Assignee;
- (e) The bid must be accompanied not less than two (2) business days before the Auction by evidence reasonably acceptable to the Assignee, in consultation with Fifth Third, which demonstrates to the Assignee’s reasonable satisfaction the bidder’s ability to fully and timely perform if its bid were the successful bid;
- (f) The bid must be payable in immediately available funds upon acceptance and may not be conditioned on obtaining financing or any internal approval or on the outcome or review of due diligence;

(g) The bid must be irrevocable through five (5) business days after the conclusion of the Auction; provided, however that the successful bid shall not be revocable following the Auction;

(h) The bid must not request a breakup fee, termination fee, expense reimbursement or similar type of payment; and

(i) The bid must include an acknowledgement that the bidder has relied solely on its own independent review and/or investigation of the Assets, and did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied or by operation of law or otherwise regarding the Assets, or the completeness of any information provided in connection therewith from the Assignee or any other party.

The bid set forth in the Stalking Horse APA shall be deemed a Qualified Bid.

“As-Is, Where-Is”

The sale of the Assets shall be on an “as-is, where-is” basis and without representations or warranties of any kind, nature or description by the Assignee or its agents. All of the Assignee’s right, title and interest in the Assets shall be sold and documented by a Bill of Sale, substantially in the form annexed as Exhibit A to the Stalking Horse APA, and/or an Assignment of Intangible Property, substantially in the form annexed as Exhibit B to the Stalking Horse APA, subject to all liens, claims, adverse claims of ownership, and other interests, if any, except for such claims and liens as described in Section N of the Notice of Auction of Assets as provided for therein. The purchaser of any of the Assets shall be responsible for, and shall indemnify and hold harmless the Assignee for all decommission and remediation costs arising from spills or releases caused by removal of any Assets, including machinery and equipment, after the Closing Date.

Auction

The Assets to be sold at the Auction shall be sold in a single lot.

The Assignee has the sole and exclusive right to accept any offer, no offer, or to withdraw any Assets from the Auction.

The Auction shall be conducted in accordance with the following procedures:

- (i) Only the Assignee, Fifth Third and Qualified Bidders (and their advisors) will be permitted to attend and participate in the Auction;
- (ii) The Auction will commence promptly at 10:00 a.m. prevailing Pacific Time on January 8, 2014;

- (iii) The opening bid shall be \$4,250,000.00 (the “Opening Bid”) pursuant to the Stalking Horse APA;
- (iv) The Opening Bid shall be subject to an initial overbid of One Hundred and Fifty Five Thousand Dollars (\$155,000.00) or greater and successive bids shall thereafter increase in increments of Twenty-Five Thousand Dollars (\$25,000.00);
- (v) Unless specified by the Assignee, no Qualified Bidder will be permitted more than five (5) minutes to respond to the previous bid;
- (vi) A ten (10) minute break will be taken as close as reasonably possible to 11:00 a.m. and, if necessary, at the top of each successive hour;
- (vii) Any Qualified Bidder who is either not present at the commencement of the Auction, or absent from the Auction for more than ten (10) consecutive minutes while the Auction is in progress, is presumed to have affirmatively withdrawn from the Auction;
- (viii) The Assignee may call a break, or suspend the Auction, in its discretion at any time;
- (ix) Each Qualified Bidder who is entitled to participate in the Auction shall have the right to require one (1) ten (10) minute break during the Auction; and
- (x) A record of the proceedings at the Auction shall be recorded by a certified court reporter, and a transcript of such proceedings shall be made available by the Assignee to any party in interest, upon request.
- (xi) The order of the bidding will be determined by the Assignee, but will start from the highest bid received and progress towards the lowest. In the event of identical bids being received, the order will be determined by the date/time of the first bid received. During the Auction if a Bidder passes or does not bid in 2 consecutive rounds that Bidder will be eliminated from the Auction and will be excused from the process.

The Assignee shall, at the conclusion of the Auction, on the record, (i) identify the amount of the highest bid (the “Successful Bid”) and bidder submitting the Successful Bid (the “Successful Bidder”).

Acceptance of Successful Bid

As soon as practicable following the end of the Auction, the Assignee shall deliver to the Successful Bidder wire instructions for payment in the amount of the Successful Bid minus the amount of the Deposit, if any, which shall be wired to the Assignee within one (1) business day following the end of the Auction (the “Closing”).

Return of Good Faith Deposit

The Deposits of all Qualified Bidders shall be held by the Assignee in one or more escrow accounts. Deposits made by Qualified Bidders, other than a Deposit made by any Successful Bidder, together with any and all interest that may have accrued thereon, shall be returned to such Qualified Bidders within two (2) business days following the close of the sale.

Modifications

The Assignee may extend or alter (i) any deadline contained herein, or (ii) any of the terms and conditions contained herein, if it will better promote the goals of the Auction. Any such extensions or alterations shall be disclosed to all Qualified Bidders in advance of, at, or during the Auction.

Consent to Auction Terms

All Qualified Bidders will be required to sign an Acknowledgement of the Bidding Procedures on the morning of the Sale and will not be allowed to bid without signing such Acknowledgement.