

**Exhibit A**  
**Bidding Procedures**

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
Fleming Companies, Inc., et al.,<sup>1</sup> ) Case No. 03-10945 (MFW)  
) (Jointly Administered)  
Debtors. )

**Bidding Procedures for the Wholesale Distribution Business**

Set forth below are the bidding procedures (the "Bidding Procedures") with respect to the prospective sale(s) (the "Sale(s)") of certain assets of Fleming Companies, Inc., Fleming Transportation Service, Inc., Piggly Wiggly Company, RFS Marketing Services, Inc., Fleming International, Ltd., Fleming Foods of Texas L.P., and Fleming Foods Management Co., L.L.C. (collectively, the "Sellers" or "Selling Debtors", each, a "Seller"). The Sellers will seek entry of an order from the Bankruptcy Court authorizing and approving the Sale(s) of the assets described herein to the Qualified Bidder(s) (as hereinafter defined) as the Sellers, in the exercise of their business judgment after consultation with their advisors, the Agent under that certain Credit Agreement, dated as of July 25, 1997, as amended, among Fleming Companies, Inc. ("Fleming"), the lender parties thereto, BancAmerica Securities, Inc., as syndication agent, Societe Generale, as documentation agent, and Chase Manhattan Bank, as administrative agent (collectively, the "Lenders"), and the Official Committee of Unsecured Creditors of the Sellers (the "Committee"), may determine to have made the best offers to purchase such assets.

**Assets to Be Sold**

The Sellers are offering for sale all or substantially all of their assets related to the wholesale distribution segment of their businesses (the "Wholesale Distribution Business"), including the distribution centers that support the Wholesale Distribution Business (the "PSCs"). The Wholesale Distribution Business does not include any assets primarily related to the convenience store distribution and retail operations businesses of the Debtors.

<sup>1</sup> The Debtors are the following entities: Core-Mark International, Inc.; Fleming Companies, Inc.; ABCO Food Group, Inc.; ABCO Markets, Inc.; ABCO Realty Corp.; ASI Office Automation, Inc.; C/M Products, Inc.; Core-Mark Interrelated Companies, Inc.; Core-Mark Mid-Continent, Inc.; Dunigan Fuels, Inc.; Favar Concepts, Ltd.; Fleming Foods Management Co., L.L.C.; Fleming Foods of Texas, L.P.; Fleming International, Ltd.; Fleming Supermarkets of Florida, Inc.; Fleming Transportation Service, Inc.; Food 4 Less Beverage Company, Inc.; Fuelserv, Inc.; General Acceptance Corporation; Head Distributing Company; Marquise Ventures Company, Inc.; Minter-Weisman Co.; Piggly Wiggly Company; Progressive Realty, Inc.; Rainbow Food Group, Inc.; Retail Investments, Inc.; Retail Supermarkets, Inc.; RFS Marketing Services, Inc.; and Richmar Foods, Inc.

While it is the intention of the Sellers to solicit the best bid for the Wholesale Distribution Business as an entire business, the Sellers will consider any bid by a Potential Bidder (as hereinafter defined) that is submitted for a portion of the Wholesale Distribution Business, provided however, that any bid that is for less than all or substantially all of the Wholesale Distribution Business may not be a Qualified Bid (as hereinafter defined) unless such bid equals or exceeds \$40,000,000 in cash and can be aggregated with other bids (each of which must equal or exceed \$40,000,000 in cash) by the Sellers to comprise a single Qualified Bid for all or substantially all of the Wholesale Distribution Business.

### **Reservation of Rights**

Subject to the terms of the APA (defined below), the Sellers reserve the right to reject any Qualified Bid (as defined below) if the Sellers determine, after consultation with the Lenders and the Committee, that such Qualified Bid is (i) inadequate or insufficient; (ii) not in conformity with the requirement of the Bankruptcy Code, any related rules or the terms set forth herein; or (iii) contrary to the best interests of the Sellers and their estates, provided that any such rejection of the Stalking Horse Bid (as hereinafter defined) shall constitute a breach of such agreement and a termination thereof giving rise to the obligation to pay the Expense Reimbursement Payment and Break-Up Fee (as each is hereinafter defined) as set forth in the APA. The Sellers shall retain all rights to the Wholesale Distribution Business that are not subject to a sale consummated pursuant to Bankruptcy Court order.

### **The Stalking Horse Bid**

The Sellers have entered into an asset purchase agreement (the "APA") with C&S Acquisition LLC ("Purchaser" or "Stalking Horse Bidder"), a subsidiary of C&S Wholesale Grocers, Inc. ("C&S"), a copy of which is available by contacting undersigned counsel or on the internet at [www.bmccorp.net/fleming](http://www.bmccorp.net/fleming).

Under the terms of the APA, the Sellers are not entitled to solicit or negotiate or engage in discussion with respect to any Acquisition Proposal<sup>2</sup> or provide Confidential Information<sup>3</sup> to any Person<sup>4</sup> except C&S, except that (i) following the filing of the Bidding

---

<sup>2</sup> "Acquisition Proposal" is defined in the APA to mean: "A proposal or proposals relating to any acquisition, purchase, merger, recapitalization or other similar transaction or series of transactions with or involving any securities or other interests in substantially all of the Acquired Assets, other than sales of Inventory in the ordinary course of business."

<sup>3</sup> "Confidential Information" is defined in the APA to mean: "Any information that is not generally known to the public or in the wholesale grocery industry and that is or has been used, developed or obtained by Sellers and their Affiliates to the extent it relates to one or more of the PSCs or the Acquired Assets including, without limitation, (i) products or services, (ii) fees, costs and pricing structures, (iii) designs and specifications, (iv) analyses, (v) drawings, photographs and reports, (vi) computer software, including, without limitation, electronic mail, operating systems, applications and program listings, (vii) flow charts, transaction summaries and models, manuals and documentation, (viii) databases, (ix) financial reports, investment summaries, and accounting and business methods, (x) ideas, formulas, compositions, inventions, devices, new developments, methods and processes, whether patentable or unpatentable and whether or not reduced to practice, (xi) customers and clients and customer, contact or client lists and other marketing data or plans, (xii) know-how, (Continued...)"

Procedures Motion on July 7, 2003, Sellers shall be entitled to provide due diligence materials in response to unsolicited requests therefor and provide the notices contemplated by such Motion and (ii) following entry of the Bidding Procedures Order, take such acts with respect to any Acquisition Proposals for the purchase of the Wholesale Distribution Business as shall be provided in the Bidding Procedures Order. From the date of the issuance of the Sale Order and until the Applicable Closing Date and provided that Purchaser is proceeding in good faith to consummate the transactions contemplated hereby in a timely manner, no Seller or any of their Affiliates shall negotiate or engage in discussion with respect to or consummate any transaction involving an Acquisition Proposal or provide Confidential Information to any Person, except, in each case, as to parties who have submitted Qualified Bids (as hereinafter defined).

Under the terms of the APA, the Stalking Horse Bidder is deemed a Qualified Bidder (as hereinafter defined) and the bid submitted by the Stalking Horse Bidder in the amount of the Estimated Purchase Price (as defined in the APA) of \$400,000,000 (the "Stalking Horse Bid") is deemed a Qualified Bid, provided that the Stalking Horse Bid will terminate in accordance with its terms if the Stalking Horse Bid is not the Successful Bid (as hereinafter defined). The Stalking Horse Bidder shall also be deemed a party in interest in the Selling Debtors' chapter 11 cases with respect to all matters concerning the conduct of, and determinations made at, the Auction (as hereinafter defined).

### **Due Diligence**

Unless otherwise determined by the Sellers after consultation with the Lenders and the Committee, each person (a "Potential Bidder") must deliver (unless previously delivered) to the Sellers, c/o Charles Pak, Kirkland & Ellis LLP, 777 South Figueroa Street, Los Angeles, California 90017 and Flip Huffard, The Blackstone Group, 345 Park Avenue, New York, New York 10154, the following documents (the "Preliminary Bid Documents") in order to participate in the Bidding Process:

- (i) an executed confidentiality agreement in form and substance satisfactory to the Sellers; and
- (ii) preliminary proof by the Potential Bidder of its financial capacity to close a proposed transaction, the adequacy of which the Sellers and their advisors will determine in their discretion upon consultation with the Lenders and the Committee.

---

(xiii) manufacturing and production processes and techniques, (xiv) research and development information, (xv) files and records, and (xvi) all similar and related information in whatever form, except that Confidential Information shall not include any information that has been published in a form generally available to the public, other than as a result of a disclosure by the parties hereto or their respective representatives."

<sup>4</sup> "Person" is defined in the APA to mean: "Any corporation, partnership, joint venture, limited liability company, organization, entity, authority or natural person."

Within two business days after a Potential Bidder delivers the Preliminary Bid Documents, the Sellers (in consultation with the Lenders and the Committee) shall determine, and shall notify the Potential Bidder, whether the Potential Bidder has submitted acceptable Preliminary Bid Documents so that such Potential Bidder may conduct due diligence with respect to the Wholesale Distribution Business sought to be acquired.

Subject to the terms of the APA, the Sellers shall afford each Potential Bidder that has submitted acceptable Preliminary Bid Documents due diligence access to the Wholesale Distribution Business. The Sellers will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from such Potential Bidders. The Sellers shall not be obligated to furnish any due diligence information after the Required Bid Deadline (as hereinafter defined). Neither the Sellers nor any of their respective representatives are obligated to furnish any information relating to the Wholesale Distribution Business to any person except to a Potential Bidder. Potential Bidders are advised to exercise their own discretion before relying on any information regarding the Wholesale Distribution Business provided by anyone other than the Sellers or their representatives.

The Sellers shall (i) coordinate the efforts of Potential Bidders in conducting their due diligence investigations of the Wholesale Distribution Business, (ii) determine whether any person is a Qualified Bidder, (iii) receive offers from Qualified Bidders, and (iv) negotiate any offers made by Potential Bidders to purchase the Wholesale Distribution Business (collectively, the "Bidding Process"). The Sellers shall have the right to adopt such other rules for the Bidding Process that, in their business judgment (after consultation with the Lenders and the Committee), will better promote the goals of the Bidding Process and that are not inconsistent with any of the other provisions hereof or of any order of the Bankruptcy Court.

#### **Bid Deadline**

A Potential Bidder that desires to make a bid shall deliver a written copy of its bid to (i) Fleming Companies, Inc., c/o Charles Pak, Kirkland & Ellis LLP, 777 South Figueroa Street, Los Angeles, California 90017 and Flip Huffard, The Blackstone Group, 345 Park Avenue, New York, New York 10154; (ii) the Lenders, c/o Andrew DeNatale, White & Case, 1155 Avenue of the Americas, New York, New York 10036; (iii) counsel to the Committee, c/o Dennis Dunne, Milbank, Tweed, Hadley & McCloy LLP, One Chase Manhattan Plaza, New York, New York 10005 and William Cohen, Pepper Hamilton LLP, 36<sup>th</sup> Floor, 100 Renaissance Center, Detroit, Michigan 48243-1157; (iv) counsel to Purchaser, c/o Richard J. Grossman, Skadden, Arps, Slate, Mcagher & Flom LLP, Four Times Square, New York, New York 10036 and Kenneth S. Ziman, Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017 (collectively (i) - (iv) are the "Notice Parties"), so as to be received not later than **4:00 p.m. (Prevailing Eastern Time), on July 28, 2003** (the "Required Bid Deadline"). Only those parties who submit timely written bids will be entitled to bid at the Auction.

#### **Bid Requirements**

- (a) All bids must include the following documents (the "Required Bid Documents"):

- (i) current audited and unaudited financial statements of the Potential Bidder (or if the Potential Bidder is an entity created for the purchase of the Wholesale Distribution Business, of such Potential Bidder's parent company), written evidence of a commitment for financing or such other form of financial evidence or disclosure, and tables setting forth the sources and uses of funds for the proposed transaction, all of which demonstrates such Potential Bidder's ability to close a proposed transaction and to provide adequate assurance of future performance under the contracts and leases to be assigned, which is in form and substance acceptable to the Sellers and their advisors in their discretion upon consultation with the Lenders and the Committee (the "Financial Documents");
  - (ii) an executed asset purchase agreement substantially in the form of the APA and otherwise in form acceptable to the Sellers (after consultation with the Lenders and the Committee), together with a copy of the asset purchase agreement submitted by such Potential Bidder marked to show changes from the APA; provided that Potential Bidders shall be required to structure their purchase price in a manner consistent with the APA with all increases in the purchase price to be made as increases in the Fixed Component of Purchase Price as defined in the APA and payable in cash;
  - (iii) a schedule of all contracts and leases, in form and substance satisfactory to the Sellers, that the Potential Bidder wishes to be assigned to it;
  - (iv) a letter stating that the Potential Bidder has read and agrees to be bound by the terms of the Bidding Procedures; and
  - (v) a letter from counsel analyzing any potential implications of closing the proposed transaction from an anti-trust (state or federal) perspective.
- (b) A "Qualified Bidder" is a Potential Bidder:
- (i) that delivers the Required Bid Documents to the Notice Parties by the Required Bid Deadline;
  - (ii) that delivers to the Sellers by the Required Bid Deadline a minimum good faith deposit (the "Good Faith Deposit") in the form of a cashier's check, wire transfer or other immediately available funds in an amount equal to at least \$18 million, or if the bid is for less than all or substantially all of the Wholesale Distribution Business, an amount equal to at least 4.75% of the cash purchase price payable at closing, which deposit shall not be subject to any Liens;
  - (iii) whose bid is for an aggregate purchase price at least equal to the Stalking Horse Bid plus the Initial Overbid Minimum (as hereinafter defined), or \$419,000,000, provided that for purposes of this requirement Sellers shall

be permitted to aggregate any number of bids so long as each bid equals or exceeds \$40,000,000 in cash.

- (iv) whose proposed asset purchase agreement is no less favorable (and no more burdensome or conditional) to Sellers than the terms of the APA;
- (v) whose bid remains open through ten (10) days after the closing of the Sale(s);
- (vi) whose Financial Documents demonstrate the financial capability to consummate the Sale(s) and to provide adequate assurance of future performance under the contracts and leases to be assigned, or in the event that the Qualified Bid is made by one or bidders, each bidder must be able to demonstrate that, individually or in the aggregate, it is (or they are) financially able to consummate the transaction contemplated by such bid(s) on the terms contemplated therein;
- (vii) that the Sellers determine (in consultation with the Lenders and the Committee) is reasonably likely (based on availability of financing, experience and other considerations) to be able to consummate the Sale(s) if selected as a Successful Bidder (as hereinafter defined) within the time frame contemplated by the APA; and
- (viii) whose bid is not subject to any internal and/or equity holder approval contingency, the outcome of unperformed due diligence, obtaining financing, or any other material conditions precedent to the bidder's ability to close that is not contained in the APA.

Sellers shall notify Potential Bidders upon Sellers' determination of whether such persons are Qualified Bidders.

All Qualified Bids submitted by the Required Bid Deadline, as they may be modified by the Qualified Bidders at the Auction (except for the Stalking Horse Bid), shall remain open and irrevocable through ten (10) days after the closing of the Sale(s). Acceptance of a Qualified Bid as a Successful Bid shall, in all respects, be subject to entry of an order by the Bankruptcy Court which, among other things, authorizes the Sellers to consummate the Sale(s) with the Successful Bidder(s). In the event that the Successful Bidder does not close, the Good Faith Deposit of that bidder will be retained as liquidated damages, and the Sellers may seek to close with the next highest or otherwise better Qualified Bidder, whose bid shall remain open and whose Good Faith Deposit shall be held until such time as the Sellers are able to consummate the Sale(s) of the Wholesale Distribution Business (this process may continue, at the discretion of the Debtors (upon consultation with the Committee and Lenders) until a sale is closed or the Sellers permanently withdraw the proposed sale).

Each Potential Bidder, whether a Qualified Bidder or not, and its partners, affiliates and joint venturers, are deemed to have submitted to the exclusive jurisdiction of the Bankruptcy Court with respect to all matters related to bids, the Auction and the Sale.

### **Bid Protection**

In order to compensate Purchaser for the time, effort, expense, and risk that it has incurred and will incur in negotiating, documenting, and seeking to consummate the Sale, the Stalking Horse Bidder will be entitled to a break-up fee and an expense reimbursement payment that will be payable on the terms and conditions set forth below and as more specifically described in Article 11 of the APA. The break-up fee (the "Break-Up Fee") will be \$11,000,000 (i.e., 2.75% of the Stalking Horse Bid). The expense reimbursement payment (the "Expense Reimbursement Payment") shall provide for the payment or reimbursement of all reasonable, documented expenses actually incurred by Purchaser, C&S and their respective Affiliates in connection with the APA and the transactions contemplated thereby in an amount not to exceed \$4,000,000 (i.e., 1% of the Stalking Horse Bid).

As more specifically set forth in Section 11.2(b) of the APA, Purchaser will be entitled to the Expense Reimbursement Payment if the APA is terminated in the following circumstances: (i) by either party as a result of the Selling Debtors' selection of another bidder as the Successful Bid at the conclusion of the Auction, (ii) by Sellers because the Cure Costs exceed the Cure Cap (\$22,000,000), (iii) by Purchaser as a result of the Selling Debtors' material breach under the APA, which material breach is not cured within ten days following written notice by the Purchaser to the Selling Debtors or which material breach, by its nature, cannot be cured prior to the Initial Closing Date, and (iv) by Sellers at any time after August 29, 2003 or by Purchaser on or after September 16, 2003 because the Initial Closing Date has not yet occurred (through no fault of Purchaser). In all circumstances the Expense Reimbursement Payment is payable in cash immediately following the submission of documentation therefor. In addition, Section 11.2(a) of the APA provides for the payment of the Break-Up Fee if the APA is terminated for any of the reasons set forth in clauses (i) – (iii) of the second preceding sentence. Section 11.2 of the APA more specifically sets forth the timing and mechanism for payment of the Break-Up Fee.

### **"As Is, Where Is"**

The sale of the Wholesale Distribution Business shall be on an "as is, where is" basis and without representations or warranties of any kind, nature or description by the Sellers, their agents or their estate except to the extent set forth in the applicable asset purchase agreement(s) with the Successful Bidder(s) as accepted by the Sellers. Except as otherwise provided in such asset purchase agreements, all of the Sellers' right, title and interest in and to the Wholesale Distribution Business shall be sold free and clear of all liens and security interests, encumbrances and claims (collectively, the "Interests") in accordance with section 363 of the Bankruptcy Code, with such Interests to attach to the net proceeds of the Sale(s) of the Wholesale Distribution Business.

Each bidder shall be deemed to acknowledge and represent that it has had an opportunity to inspect and examine the Wholesale Distribution Business and to conduct any and all due diligence regarding the Wholesale Distribution Business prior to making its offer, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Wholesale Distribution Business in making its bid, except as expressly stated in these Bidding Procedures or, as to the Successful Bidder(s), the respective asset



purchase agreement(s), 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 Wholesale Distribution Business, or the completeness of any information provided in connection therewith or the Auction.

### **Auction and Overbids**

If Sellers do not receive a Qualified Bid in addition to the Stalking Horse Bid, the Selling Debtors will report the same to the Bankruptcy Court and will proceed with the Sale Hearing (as hereinafter defined) and no Auction shall be required or held.

The Sellers shall conduct an auction (the "Auction") with respect to the Wholesale Distribution Business only if one or more Qualified Bids in addition to the Stalking Horse Bid have been received by the Required Bid Deadline. The Auction shall commence at **10:00 a.m. (Prevailing Eastern Time) on July 31, 2003**, at the offices of Kirkland & Ellis LLP, 153 East 53<sup>rd</sup> Street, New York, New York 10022, or such later time or other place as the Sellers shall notify all Qualified Bidders who have submitted Qualified Bids. Only a Qualified Bidder who has submitted a Qualified Bid is eligible to participate at the Auction.

At the commencement of the Auction, the Sellers will determine, after consultation with the Lenders and the Committee, the best bid to serve as the lead bid in the Auction (the "Baseline Bid") and provide copies thereof to all other participants in the Auction. A Qualified Bid competing with the Stalking Horse Bid must exceed the Stalking Horse Bid by an amount at least equal to \$19,000,000 (i.e., four and three-quarters percent (4.75 %) of the Stalking Horse Bid) and such amount (the "Initial Overbid Minimum") must be payable in cash at closing as an increase to the Fixed Component of the Purchase Price. All subsequent overbids shall be in an amount not less than \$500,000 more than the prior bid (the "Overbid Increment") and also must be payable in cash at closing as an increase to the Fixed Component of the Purchase Price. Qualified Bidders will be permitted to increase their bids at the Auction, in accordance with the conditions set forth in this paragraph, as many times as they wish. The Stalking Horse Bidder, if it so chooses, may include a credit for all or a portion of the Break-Up Fee and maximum Expense Reimbursement Payment potentially payable to it as part of any overbid it submits at the Auction.

The Sellers, in their sole discretion, may permit a Qualified Bidder to bid by telephone, in person or any combination thereof, provided that at least one representative of the Qualified Bidder is present at the Auction in person. Qualified Bidders who are absent from the Auction for more than thirty (30) consecutive minutes while the Auction is in progress are presumed to have affirmatively withdrawn from the Auction.

### **Successful Bid**

Upon conclusion of the Auction, the Sellers, after consulting with their advisors, the Lenders, and the Committee, shall (i) review each Qualified Bid on the basis of financial and contractual terms and the factors relevant to the sale process, including, without limitation, those factors affecting the speed and certainty of consummating the Sale(s), and (ii) identify the best offer(s) for all or part of the Wholesale Distribution Business (the "Successful Bid(s)") (each

bidder having submitted a Successful Bid is a "Successful Bidder"). The Successful Bid(s) shall be determined by considering, among other things: (A) the number, type and nature of any changes to and conditions contained in the asset purchase agreement submitted by each Qualified Bidder (as compared to the APA); (B) the extent to which such modifications are likely to delay closing of the Sale(s), and the cost to the Sellers of such modifications or delay; (C) the total and net consideration to be received by the Sellers; (D) the Qualified Bidder's ability to close a transaction and the timing thereof; and (E) the net benefit to the Selling Debtors' estates. Solely for purposes of determining the Successful Bid(s), any overbid submitted by the Stalking Horse Bidder shall be deemed to include the full amount of the Break-Up Fee and Expense Reimbursement Payment potentially payable.

At the Sale Hearing, the Sellers shall present the Successful Bid(s) to the Bankruptcy Court for approval. The Sellers may adopt such additional rules for the bidding process at the Auction that, in their judgment and upon consultation with the Lenders and the Committee, will better promote the goals of the bidding process, which is to maximize the return to Sellers' estates and Sellers.

#### **Acceptance of Qualified Bids**

The Sellers shall submit the Successful Bid(s) for approval of the Bankruptcy Court. The Sellers' presentation to the Bankruptcy Court for approval of a particular Successful Bid does not constitute the Sellers' acceptance of the bid. The Sellers will be deemed to have accepted a bid only when the Successful Bid has been approved by the Bankruptcy Court at the Sale Hearing.

#### **Sale Hearing**

The sale hearing is presently scheduled to take place at 11:30 a.m. (Prevailing Eastern Time), on **August 4, 2003**, at the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, Wilmington, Delaware 19801 (the "Sale Hearing"). The Sale Hearing may be adjourned or rescheduled without notice by an announcement of the adjourned date at the Sale Hearing. At the Sale Hearing, the Sellers shall present to the Bankruptcy Court for approval the Successful Bid(s) for the Wholesale Distribution Business.

#### **Return of Good Faith Deposit**

The Good Faith Deposit(s) of the Successful Bidder(s) shall be credited to the purchase price. The Good Faith Deposit(s) of any unsuccessful bidders will be returned within 10 days after consummation of the sale of the assets for the Wholesale Distribution Business or upon permanent withdrawal by the Sellers of the proposed sale of such assets. The deposit of the Stalking Horse Bidder, if not chosen as the Successful Bid, shall be returned in accordance with the APA.

#### **Modifications**

Subject to the terms of the APA and the Bidding Procedures Order, the Sellers may (a) determine, in their business judgment after consultation with the Lenders and the Committee, which Qualified Bid(s), if any, is the highest or otherwise best offer; (b) reject at any

time before entry of an order of the Bankruptcy Court approving the Successful Bid(s), any bid that, in the Sellers' discretion, after consultation with the Lenders and the Committee, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures or the terms and conditions of sale, or (iii) contrary to the best interests of the Sellers, their estates, and their creditors; and (c) at or before the Sale Hearing, impose such other terms and conditions as they may determine, after consultation with the Lenders and the Committee, to be in the best interests of the Sellers' estates, their creditors and other parties in interest.

[REMAINDER OF THE PAGE INTENTIONALLY BLANK]