

## The Bid Procedures

Bid Deadline – September 3, 2024

Auction Date – September 4, 2024

Closing – No later than September 9, 2024

Assets. The mixed-use property consisting of approximately 40 residential units and more than 31,000 square feet of commercial retail space located at 103-113 North 3<sup>rd</sup> Street and 188-190 Berry Street, Brooklyn, NY (the “Property”), shall be sold free and clear of all claims, liens and interests pursuant to 11 U.S.C. §§ 363(b) and (f) and 1123(a)(5).

Potential Bids. A Bid must be in writing and sent to Debtor’s counsel, Goldberg Weprin Finkel Goldstein LLP, 125 Park Avenue, 12<sup>th</sup> Fl. New York, New York 10017, Attn: Kevin Nash (knash@gwfglaw.com).

Qualification of Bidders. To be eligible to participate in the Auction, each Potential Bidder must provide the following (collectively, the “Participation Requirements”):

- a. An initial minimum bid in the sum of at least \$TBD as determined by the Lender.
- b. Disclose the identity of the person or entity that is bidding for the Property (the “Bidder”) with appropriate contact information and counsel;
- c. Provide financial information which fairly and reasonably demonstrates the source of the Bidder’s ability to close on the purchase of the Property in the amount of its bid;
- d. Contain a signed acknowledgment that the Bidder will be bound by its bid and the representation, and statements made in the Qualifying Statement until such bid is rejected by the Debtor;
- e. Disclose if the Potential Bidder is a partner, officer, director, stockholder, agent, employee insider or affiliate of the Debtor, the Debtor’s principals, the Broker or any relative of any of the foregoing, such a Potential Bidder must so disclose the exact nature of its relationship with the foregoing entities;
- f. A good faith deposit in the amount equal to five (5%) percent of the bid in immediately available funds (the “Deposit”); and

- g. A signed acknowledgment that if the Bidder is determined by the Debtor to be the Successful Bidder, it will execute a written contract of sale (the "PSA") for the acquisition of the Property on terms and conditions reasonably acceptable to the Lender and the Debtor.

Qualified Bidders and Bids. Potential Bidders who have satisfied the Participation Requirements will be deemed "Qualified Bidders." Notwithstanding anything herein to the contrary, the Lender (or its nominee, designee or assignee) is a Qualified Bidder and not subject to any Participation Requirements and/or providing a Deposit. Further, although under no obligation to do so, Lender (or its nominee, designee or assignee) is entitled to credit bid up to and including the total amount of its allowed claim of \$80,317,112.78 pursuant to 11 U.S.C. § 363(k).

Auction Participation. Unless otherwise agreed to by the Debtor and Lender, only Qualified Bidders, and their legal or financial professionals are eligible to attend or participate at the Auction.

Auction. The Auction will be conducted by counsel for the Debtor and shall be governed by the following procedures:

- a. Each Qualified Bidder shall be required to confirm under oath that it has not engaged in any collusion with respect to the bidding.
- b. The initial bid at the commencement of the Auction shall be the highest and best offer received before the Bid Deadline, as determined by the Debtor and its counsel. The bidding shall be in increments of \$100,000. The Debtor, in the exercise of its reasonable business judgement, may adjust the amount of the successive bid increments at the Auction.
- c. The Qualified Bidders each expressly acknowledge and agree that in the event that another person or entity is selected as the Successful Bidder but fails to timely tender the Deposit or Additional Deposit or otherwise perform its obligations under these Terms of Sale, the Debtor may contact the second highest or best bidder (the "Second Bidder") to sell the Assets to the Second Bidder without any further notice or further approval of the Bankruptcy Court, without giving credit to the Second Bidder for the initial Successful Bidder's Deposit or Additional Deposit, which deposit(s) shall be forfeited by the initial Successful Bidder, and upon such other terms and conditions as the Debtor deems appropriate in its reasonable business judgment. Thereafter, the Second Bidder shall be deemed for all benefits and obligations to be the Successful Bidder and shall comply with the terms, conditions, and obligations set forth herein and the related documents and order of the Bankruptcy Court.

- d. The Lender retains all rights to credit bid up to the full amount of its allowed claim in the sum of \$80,317,112.78.

Only Qualified Bidders shall be permitted to attend and participate at the Auction unless agreed to by the Lender and the Debtor.

Modifications.

These Bid Procedures may be modified in the exercise of business judgment by the Debtor with the consent of the Lender.